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International Convention for the Protection of All Persons from Enforced Disappearance

Report of the Secretary-General

Summary

In resolution 69/169, the General Assembly requested the Secretary-General to submit to it, at its seventieth session, a report on the status of the International Convention for the Protection of All Persons from Enforced Disappearance and the implementation of the resolution. The present report is submitted in accordance with that request.

In a note verbale dated 25 March 2015, the Secretary-General invited Governments to transmit any information pertaining to the implementation of resolution 69/169. Replies have been received from the Governments of Argentina, Burkina Faso, Colombia, Cuba, Lebanon, Paraguay, Serbia, Slovakia, Spain, and Switzerland. Their responses are summarized in the present report.

The present report also includes information on the activities carried out in relation to the implementation of the resolution by the Secretary-General, the United Nations High Commissioner for Human Rights and his Office, the Committee on Enforced Disappearances, the Working Group on Enforced or Involuntary Disappearances and intergovernmental and non-governmental organizations.

* A/70/150.

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Contents

		Page
I.	Introduction	3
II.	Status of ratification of the International Convention for the Protection of All Persons from Enforced Disappearance	3
III.	Replies received from States	3
	Argentina	3
	Burkina Faso	4
	Colombia	4
	Cuba	5
	Lebanon	6
	Paraguay	6
	Serbia	7
	Slovakia	7
	Spain	7
	Switzerland	8
IV.	Activities of the Secretary-General and the United Nations High Commissioner for Human Rights	9
V.	Activities of the Committee on Enforced Disappearances	11
VI.	Activities of the Working Group on Enforced or Involuntary Disappearances	12
VII.	Activities of United Nations agencies and organizations, intergovernmental and non-governmental organizations	13
VIII.	Conclusion	14
Annex		
	States that have signed, ratified or acceded to the Convention for the Protection of All Persons from Enforced Disappearance as at 22 July 2015	15

I. Introduction

1. In its resolution 69/169, on the International Convention for the Protection of All Persons from Enforced Disappearance, the General Assembly requested the Secretary-General to submit to it, at its seventieth session, a report on the status of the Convention and the implementation of the resolution. The present report is submitted in accordance with that request.

2. On 25 March 2015, the Secretary-General invited Member States to transmit relevant information pertaining to the implementation of the resolution. As at 22 July 2015, replies were received from the Governments of Argentina, Burkina Faso, Colombia, Cuba, Lebanon, Paraguay, Serbia, Slovakia, Spain, and Switzerland. The Secretary-General also sent requests for information on the implementation of the resolution to specialized agencies, United Nations funds and programmes, and civil society organizations. The Secretary-General received submissions from Amnesty International, the International Coalition against Enforced Disappearances, and TRIAL (Swiss Association against Impunity). Their responses are summarized in the present report.

II. Status of ratification of the International Convention for the Protection of All Persons from Enforced Disappearance

3. As at 22 July 2015, 94 States have signed and 47 have ratified or acceded to the Convention; 18 States have recognized the competence of the Committee on Enforced Disappearances to receive and consider communications from or on behalf of individuals subject to its jurisdiction claiming to be victims of a violation by the State party of provisions of the Convention (article 31); and 19 States have recognized the competence of the Committee to receive and consider communications in which a State party claims that another State party is not fulfilling its obligations under the Convention (article 32). Updated information on the status of ratification of the Convention may be found in the annex to the present report.

III. Replies received from States

4. Summaries of the replies of States relating to the implementation of resolution 69/169 are provided below.

Argentina

[Original: Spanish]
[15 May 2015]

5. Argentina took the lead in the draft of the Convention as well as in its negotiation and was the second State to ratify it on 14 December 2007. The Convention was approved through Law 26.298. Argentina singles out, as one of its main contributions to the draft of the Convention, the prevention and punishment of the wrongful removal of children who are subjected to enforced disappearance, the re-establishment of their identity and the restitution to their family of origin.

6. Argentina states that the Working Group on Enforced or Involuntary Disappearances held its 105th session in the Site for Memory and for Human Rights, in Buenos Aires. On this occasion the Ministry for Human Rights organized a panel discussion with the participation of the Ministry for Human Rights, the Chair of the Working Group, the President of the non-governmental organization (NGO) Abuelas de Plaza de Mayo, a representative of the Madres de Plaza de Mayo Linea Fundadora and the President of the Asociación de Familiares de Desaparecidos y Detenidos por razones politicas.

7. The National Commission for the Right to Identity continues the search for children of victims of enforced disappearance and its collaboration with the National Genetic Data Bank.

Burkina Faso

[Original: French]
[2 July 2015]

8. Burkina Faso ratified the Convention on 3 December 2009, translating the will of Burkina Faso to prevent and repress the crime of enforced disappearance and to reinforce existing laws and regulations in the area of human rights. Burkina Faso has not recognized the competence of the Committee under articles 31 and 32; however, Burkina Faso stands ready to cooperate with the Committee for the protection of all persons against enforced disappearances. Burkina Faso requested and obtained assistance from the West African Regional Office of the Office of the United Nations High Commissioner for Human Rights for the validation of the report submitted to the Committee in 2014. Burkina Faso organized training sessions on the Convention addressed to the judiciary in Ouagadougou and Bobo Dioulasso. The same activity is foreseen in 2015 in other places in Burkina Faso.

Colombia

[Original: Spanish]
[8 June 2015]

9. Colombia approved the ratification of the Convention through Law 1418 of 1 December 2010; following the constitutional check, the Constitutional Court declared the law executable in June 2011 through Judgment C-620. The Convention was ratified on 11 July 2012 and entered into force on 10 August 2012.

10. Before the ratification of the Convention, article 12 of the Political Constitution of 1991 already determined that "no one shall be submitted to enforced disappearance, torture or cruel, inhuman or degrading treatment". Accordingly, Colombia adopted a series of legislative and institutional measures to prevent, investigate, prosecute, punish and provide reparation for the consequences of the crime of enforced disappearances. Some of the most important measures are: (a) article 165 of the Criminal Code which defines the conduct of enforced disappearance in wider terms than the Convention as it can be committed by any individual and not only by a state official; (b) Law No. 589 of 2000, which established the National Register of Disappeared, the Commission for the Search of Disappeared Persons, and the Urgent Search Mechanism; (c) No. 971 of 2005, which established the right of the families of victims of enforced disappearance to

participate in the activities of the Urgent Search Mechanism; (d) Law 1408 of 2010 which pays a tribute to the victims of enforced disappearance and defines the tools for their localization and identification; (e) and Law 1448 of 2011 which establishes the right of the victims of enforced disappearance to receive information from the competent institutions on their rights relating to the search, the exhumation and the identification of victims. Colombia also regulated the instances and mechanisms for the prevention of the crime through several decrees, resolutions, circulars and other means of sensitization of public officers.

11. Colombia ratified the Convention on 11 July 2012 without making any reservation or declaration. Through ratification, the State party agreed to the competence of the Committee to receive and examine requests for urgent actions under article 30 of the Convention, but it did not accept the competence of the Committee under articles 31 and 32. Colombia considers that the recommendations based on article 30 do not imply a decision on the merits of the case, and therefore do not determine if the State party in question is responsible internationally for the violation of its obligations under the Convention.

12. The commitment of the United Nations system for the fight against enforced disappearance has been invaluable in Colombia. Several agencies such as the Office of the High Commissioner for Human Rights, the United Nations Development Programme, the United Nations Office on Drugs and Crime, among others, provided technical assistance to: establish interaction with the families of victims and the governmental agencies; purchase the technology for the strengthening of the National Register of the Disappeared; support the process of identification and documentation of cases; assist in the recovery of remains from cemeteries; and train officials on the situations that may be conducive to enforced disappearance.

Cuba

[Original: Spanish]
[23 April 2015]

13. Cuba has been a State party to the Convention since 2 February 2009. It continually evaluates the possibility of accepting the procedures in articles 31 and 32 of the Convention which Cuba observes are optional. Cuba has not requested or received any assistance from the Secretary-General, the High Commissioner for Human Rights or any organ of the United Nations, any intergovernmental or non-governmental organization or the Working Group on Enforced or Involuntary Disappearances in relation to enforced disappearances or any aspect of the application of the Convention given that such assistance has not been necessary since the revolution of 1959. Through its internal and external policies, Cuba indicates in its response that it puts into practice the respect for the physical and moral integrity of the individual which allows it to ensure that there have been no cases of disappearances, torture, or secret detention with the exception of the illegally occupied United States Naval base in Guantanamo. Cuba notes that its legal system establishes not only the basic universally recognized legal guarantees relating to human rights, but also offers concrete guarantees for the real and effective exercise of all human rights, civil and political, as well as economic, social and cultural rights.

Lebanon

[Original: Arabic]
[29 June 2015]

14. Lebanon has not ratified the Convention but is finalizing the legal steps required to do so. Lebanon states that two successive Governments have issued declarations to the effect that they will ratify the Convention. However, the principal obstacle that has prevented the ratification is the lack of any decisive political will. The Council of State on 4 March 2014 issued a decree obliging the Government to release the entire file pertaining to the inquiries conducted by the official investigation commission, set up in 2000 to look into the fate of abductees, missing and prisoners in Syrian and Israeli prisons and of disappeared persons. Other practical obstacles, which have potential legal implications, include: difficulties faced by the relatives of the disappeared persons; lack of psychosocial support; complexity of administrative procedures; freeze of financial assets of disappeared persons and difficulties in identifying the heirs; and the compensation that victims and relatives are entitled to demand.

15. Lebanon states that the assistance received is not directly related to the ratification of the Convention but to creating a favourable climate wherein civil society actors and NGOs can apply pressure so that this controversial issue can be tackled. Lebanon received assistance from: (a) the International Committee of the Red Cross that received a copy of the official file of the investigations conducted by the Lebanese Government and that launched in January 2015 a programme to help the relatives of disappeared persons in the district of Sidon and aims at collecting DNA samples of the families interviewed; (b) the National Agency for the Disappeared Persons that prepared a report containing the names of persons who are known to be still alive in the Syrian Arab Republic or Israel; (c) the Solide Association (Support of Lebanese in Detention and Exile); and (d) the Office of the High Commissioner for Human Rights in Geneva.

Paraguay

[Original: Spanish]
[3 June 2015]

16. Paraguay ratified the Convention and integrated it in its domestic legal system through Law No. 3977 of 10 May 2010. The Ministry for Foreign Affairs is promoting the acceptance of articles 31 and 32 of the Convention. A draft message will be presented to the National Congress, urging the approval of those articles. Through law No. 4614/12, the criminal offences of enforced disappearances and torture were modified in the Criminal Code in conformity with the definitions established by the respective Conventions. Paraguay underlines that its Criminal Code does not contemplate the hypothesis that the crime may be committed by individuals with the support, authorization or acquiescence of the State. Paraguay submitted its report to the Committee in compliance with article 29, paragraph 1, of the Convention, and had the constructive dialogue on 16 and 17 September 2014, following which the Committee adopted its concluding observations. In September 2015 Paraguay will present information on the follow-up given to the three priority recommendations highlighted by the Committee, and in 2020 will submit its next report to the Committee.

17. Paraguay, in coordination with the Human Rights Adviser of the Office of the High Commissioner for Human Rights, implemented the Recommendations Monitoring System. The purpose of this tool is to access updated and systematized information on the action that the State is taking to implement the recommendations on human rights made to Paraguay; this virtual platform is available from the website of the Ministry for Foreign Affairs. Every institution, responsible for the implementation of the recommendations, generates in the system a follow-up report that the Ministry for Foreign Affairs compiles for its presentations to the treaty bodies. The Committee on Enforced Disappearances welcomed the launch of the Recommendations Monitoring System; the fact that Paraguay ratified all the core United Nations human rights treaties and almost all the optional protocols thereto, as well as the Rome Statute of the International Criminal Court and the Inter-American Convention on Forced Disappearance of Persons. The Committee also welcomed the establishment of the non-applicability of statutory limitations to the offence of enforced disappearance in the National Constitution and the establishment of the National Mechanism for the Prevention of Torture and the commencement of its work.

Serbia

18. Serbia stated that it has not received any assistance in the understanding and implementation of the obligations under the Convention from the United Nations, the Working Group on Enforced or Involuntary Disappearances, nor from other international organizations or NGOs.

Slovakia

19. Slovakia ratified the Convention on 15 December 2014 and accepted the competence of the Committee under articles 31 and 32.

Spain

[Original: Spanish]
[14 July 2015]

20. Spain ratified the Convention on 24 September 2009 and it entered into force on 23 December 2010. In compliance with article 29 of the Convention, Spain submitted its report to the Committee on Enforced Disappearances in December 2012 and held the constructive dialogue in November 2013. Spain promoted the ratification of the Convention among other States, in particular through the formulation of recommendations in that sense during the Universal Periodic Review. Spain observed that there is a slowing down in the rate of ratifications of the Convention and that the interpretation by the Committee on Enforced Disappearances on its temporal competence, which was elaborated during the review of Spain in November 2013 on the one hand brings up the issue of ratifications in the past two years and the additional problem of the policy and promotion of the ratification of the Convention.

21. In fact, in November 2013, the Committee issued a declaration on its temporal competence which, despite the literal wording of article 35 of the Convention,

restricts the application of the article exclusively to individual communications and interprets the temporal competence of the Committee in an extensive manner, extending it to the past up to an unspecified limit. This interpretation is contrary to the literal wording of article 35 of the Convention as the limitation of the competence of the Committee, not only with regard to individual communications but in general, was clear throughout the preparatory work for the Convention.

22. The declaration of the Committee about its competence ratione temporis is also contradictory with the declarations made by the Committee when promoting ratification of the Convention among Members States. The interpretation adopted by the Committee may provoke a slowdown in the process aimed at achieving universal ratification of the Convention, a process in which Spain has been particularly active.

23. The extensive interpretation of the Committee about its ratione temporis competence also means duplication of effort and a clear overlapping with the work of other human rights organs, and in particular the Working Group on Enforced or Involuntary Disappearances. The duplication and overlapping also mean increasing efforts and costs that are not unlimited and, more importantly, the attention that the Committee devotes to the examination of past events, is at the detriment of the prevention of enforced disappearance and of current cases of enforced disappearance.

24. This interpretation of the Committee has not been homogenous in relation to all States examined to date and a clear criterion does not exist to determine whether the competence ratione temporis extends unlimitedly to the past. This introduces a disturbing effect of legal uncertainty which is not appropriate for the human rights international legal framework. Moreover, it is commonly understood that the competence of United Nations organs never extends to events that took place before the existence of the Organization.

25. This discrepancy regarding the temporal competence of the Committee has not prevented Spain from continuing to cooperate with it and addressing all the issues it raises, including those which, according to the literal interpretation of article 35 of the Convention, would be outside the competence of the Committee.

26. Nonetheless, Spain considers that this interpretation of the Committee of its own competence poses, on the one hand, a matter of legal uncertainty that could be the origin of the slowdown in the rate of ratifications as observed in the last two years and, at the same time, it could create an additional difficulty in the promotion of ratification of the Convention.

Switzerland

[Original: French]
[22 May 2015]

27. Switzerland joins international efforts in the area of prevention and repression of enforced disappearances. Switzerland signed the Convention on 19 January 2011. Its implementation requires some legal amendments specifically in relation to the explicit prohibition of the crime of enforced disappearance and the implementation of rights to information and remedy for individuals close to victims. The consultation process concerning the ratification of the Convention took place in spring 2013 and allowed civil society to have input into the future implementation of the Convention. On 29 November 2013 the Federal Council adopted a message

concerning ratification of the Convention which was transmitted to Parliament. In its message to Parliament, the Federal Council proposes that Switzerland recognize the competence of the Committee under articles 31 and 32. The recognition of these competences by the largest number of States, including Switzerland, contributes to the improvement of human rights all over the world. The dossier was examined in February 2015 by a first parliamentary commission. The two chambers of the Parliament should continue dealing with this subject during the course of 2015.

IV. Activities of the Secretary-General and the United Nations High Commissioner for Human Rights

28. In paragraph 4 of its resolution 69/169, the General Assembly requested the Secretary-General and the United Nations High Commissioner for Human Rights to increase their intensive efforts to assist States in becoming parties to the Convention, with a view to achieving universal adherence.

29. The International Convention for the Protection of All Persons from Enforced Disappearance has been highlighted during all treaty-related events organized by the United Nations in New York since 2007, to promote accession or ratification and implementation. The Convention is also part of the treaty event for 2015.

30. In February 2015, the Secretary-General, in his report on the situation of human rights in the Islamic Republic of Iran welcomed the engagement of the State with United Nations treaty bodies and urged it to ratify the Convention (A/HRC/28/26, para. 62).

31. The Secretary-General delivered a message on 30 August 2014, on the occasion of the International Day of the Victims of Enforced Disappearances. He noted that the Convention provides a sound foundation for fighting impunity, protecting disappeared persons and their families and strengthening the guarantees provided by the rule of law — including investigation, justice and redress. The Secretary-General urged all Member States to sign and ratify the Convention without delay to strive for its universal ratification and a final end to all enforced disappearances.

32. OHCHR pursues its efforts to combat enforced disappearances and to achieve universal ratification of the Convention under the thematic priorities of "violence and insecurity" and "support for human rights mechanisms" as set out in the Office Management Plan for 2014-2017. Efforts focus on supporting States' actions to ratify the Convention and providing training and capacity-building to States and civil society, as well as raising awareness about the Convention.

33. The High Commissioner has undertaken some specific activities over the period from July 2014 to June 2015. In a series of statements and press releases the High Commissioner made reference to allegations of enforced disappearance in the Syrian Arab Republic,[1] Ukraine,[2] the Central African Republic[3] and Myanmar.[4]

34. In January 2015, the High Commissioner urged Guatemala to implement the recommendations made in the previous report (A/HRC/28/3/Add.1, para. 98) which

[1] http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15584&LangID=E.
[2] http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15627&LangID=E.
[3] http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16025.
[4] http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16076&LangID=E.

included the ratification of the Convention as a guarantee of non-recurrence of past violations (A/HRC/25/19/Add.1, para. 6).

35. In March 2015, the High Commissioner recommended to the Government of South Sudan and to the Sudan People's Liberation Movement-in-Opposition (SPLM/A-IO) and other armed actors to immediately cease fighting and all forms of violence, and refrain from committing human rights violations and violations of international humanitarian law, including enforced disappearances (A/HRC/28/49, paras. 59 and 63).

36. OHCHR Colombia supported the Attorney General's Office in providing forensic and psychological assistance to the families of two persons disappeared in 2007. On the occasion of the restitution of the remains of the disappeared persons to their families, in December 2014, OHCHR Colombia issued a press release which highlighted the importance of this search and recovery process. It also called for the need to speed up investigations and the search for persons who have been disappeared or extrajudicially executed.

37. In Mexico, OHCHR has been following and supporting, where appropriate, the drafting process of laws on enforced disappearance. Since the 2002 adoption of federal legislation prohibiting enforced disappearance, 26 of Mexico's 32 states have included similar provisions in their criminal codes. OHCHR provided authorities, NGOs and relatives with technical assistance on how to adopt a legal framework on enforced disappearance and in order to promote the establishment of a national mechanism to search for disappeared and missing persons. In particular, OHCHR Mexico supported through a series of workshops, forums and discussions, and with technical assistance the state of Coahuila to adopt a declaration of absence due to enforced disappearance, which allows the family of the victims to address the legal situation including in relation to social welfare, financial matters, family law and property rights.

38. OHCHR has also encouraged the withdrawal of reservations to international treaties, including in relation to the scope of military jurisdiction on cases of enforced disappearance.

39. OHCHR submitted an opinion paper to the Supreme Court on the international human rights standards applicable to the *arraigo*, a form of preventive detention, which was taken into account in the Court's judgment on the subject. The Supreme Court of Mexico declared that federal judges must accept any appeal against the figure of *arraigo* in Mexican states and that their rulings must recognize *arraigo* as unconstitutional.

40. The Office also undertook numerous efforts to publically raise the issue of enforced disappearance, including through press releases, declarations in the media, participation in commemorative activities and the elaboration and dissemination of relevant materials.

41. The year 2014 was also marked by emblematic cases of grave human rights violations in Mexico, namely the disappearance of 43 students from Ayotzinapa, Guerrero, and extrajudicial killings that occurred during a military operation in Tlatlaya, Mexico. OHCHR has documented both cases and engaged with Mexican authorities, victims and NGOs.

42. OHCHR Tunisia facilitated training courses for State authorities and provided technical advice regarding the report submitted by the State party to the Committee on Enforced Disappearances.

43. In Ecuador, the Human Rights Adviser facilitated the participation of civil society organizations in the drafting process of two State party reports for the Committee on Enforced Disappearances.

44. In Paraguay the Human Rights Advisers provided assistance to a national network of human rights organization Coordinadora de Derechos Humanos del Paraguay (CDEHUPY) in the submission of an alternative report to the Committee on Enforced Disappearances.

45. In the Niger, the Human Rights Adviser within the United Nations country team advocated the Niger's ratification of the Convention. During 2014, the Government of the Niger approved the draft law for the ratification and the bill was forwarded to the National Assembly for adoption.

46. The OHCHR Regional Office for South America has encouraged civil society organizations to submit alternative reports to the Committee on Enforced Disappearances. With the assistance of OHCHR's advocacy, which included awareness-raising, training on reporting and dissemination of the Committee's reporting guidelines, four Argentine civil society organizations submitted alternative reports to the Committee for its review of Argentina in November 2013.

47. The OHCHR Regional Office for West Africa assisted the three ministries in Burkina Faso that are in charge of State reporting in harmonizing their procedures. The Office also provided technical support in the preparation of all reports drafted in 2014, including the one to the Committee on Enforced Disappearances.

48. The OHCHR Regional Office for Southern Africa assisted Angola in the preparations for the signature of the Convention and Togo in the ratification of the Convention.

49. The United Nations Voluntary Fund for Victims of Torture has awarded grants to a number of non-governmental entities providing assistance to families of victims of enforced disappearances and/or documenting cases of enforced disappearance in line with the relevant provisions of the Convention. For example, in Mexico, the Fund supports a project aiming at providing legal aid to the families of migrant victims of enforced disappearances in border areas. In Argentina, another project continues to be supported by the Fund with the aim of delivering psychological, social and legal services, including DNA tests, to the families of victims of enforced disappearances. In Morocco, the Fund supports a project which provides medical and psychosocial assistance to family members of victims of enforced disappearances.

V. Activities of the Committee on Enforced Disappearances

50. During the reporting period, the Committee took several steps to promote ratification and implementation of the Convention and has maintained its dialogue with the Working Group on Enforced or Involuntary Disappearances and with other relevant mechanisms and stakeholders. A detailed compilation of the activities of

the Committee can be found in its annual report to the General Assembly at its seventieth session (A/70/56*).

51. The Committee on Enforced Disappearances registered 51 urgent actions and interim and protection measures were requested in 45 of these cases.

52. In all his public statements, the Chair of the Committee, Emmanuel Decaux, promotes the ratification of the Convention and stresses that it should be followed by its transposition in the domestic legal order and its implementation. He also invites States parties that have not done so to accept the competence of the Committee under articles 31 and 32 of the Convention.

53. The Committee met twice with Member States at public meetings on 18 September 2014 and 5 February 2015. The Committee invited States parties to the Convention which have not yet submitted their reports, and States which have neither signed nor ratified the Convention to do so, and encouraged all States to accept the Committee's competence under articles 31 and 32. In addition, the Chair updated States on the work of the Committee.

54. On 17 September 2014, the Working Group on Enforced or Involuntary Disappearances, jointly with the Committee, issued a statement on the occasion of the fourth meeting between the two bodies.[5] The members of the two bodies highlighted the need to continue working collectively to achieve universal adherence to the Convention and recognition of the competence of the Committee under articles 31 and 32. Both expert bodies also exchanged information on past activities, including on country visits and the review of State parties, and agreed on continuous cooperation to coordinate their agendas, including on thematic priorities.

55. The Committee also met, on 18 September 2014 and 5 February 2015, with representatives of NGOs and associations of victims to discuss general matters relating to the promotion and implementation of the Convention. The Committee welcomed the support of NGOs in relation to encouraging States to ratify the Convention and underlined the importance of close cooperation in raising awareness.

56. During the reporting period, the Committee, through its secretariat, continued to send reminders to States parties whose reports were overdue to encourage prompt submission, bringing to their attention the guidelines on the form and content of reports under article 29 to be submitted by States parties to the Convention (CED/C/2).

VI. Activities of the Working Group on Enforced or Involuntary Disappearances

57. On 8 August 2014, the Committee on Enforced Disappearance and the Working Group issued a joint statement, together with two other special procedures mechanisms welcoming the reunion of Estela de Carlotto (President of the Argentinian human rights organization Abuelas de Plaza de Mayo) with her grandson after 36 years. The experts also urged full support for families of the disappeared around the world.

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* To be issued.

[5] http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14010&LangID=E.

58. On 30 August 2014, on the occasion of the Day of the Victims of Enforced Disappearances the Committee on Enforced Disappearance and the Working Group issued a joint statement. They called on States to remove all obstacles and to aid investigations into the fate of disappeared persons. The experts stressed that States need to ensure that relatives, their representatives have full and prompt access to national, regional and international mechanisms aimed at establishing the truth on the disappearances. This goes beyond removing obstacles to accessing these mechanisms and includes the active promoting and facilitation of their use. For example, it is crucial to make adequate use of all available technological tools and scientific techniques.

59. On 17 September 2014, the fourth annual meeting of the Committee on Enforced Disappearances and the Working Group on Enforced or Involuntary Disappearances took place in Geneva. During the meeting, the members of the two bodies continued discussions on the complementarity of their procedures. They highlighted the need to continue to make their coordination of activities more effective with a view to strengthen efforts to combat enforced disappearances with a victim-centred perspective. They also exchanged information on past and forthcoming activities, including on country visits and the review of States parties, and agreed on continuous cooperation to coordinate their agendas. The experts identified as thematic priorities for their joint work the relationship between economic, social and cultural rights and enforced disappearances; the acts of non-state actors that are tantamount to enforced disappearances; and the strategies for the search of the disappeared persons.

60. In August 2014, in its report to the Human Rights Council, the Working Group reiterated its calls upon States that have not signed and/or ratified the International Convention to do so as soon as possible and to accept the competence of the Committee on Enforced Disappearances to receive individual cases under article 31, and inter-State complaints under article 32 of the Convention (A/HRC/27/45, para. 21). The Working Group uses every opportunity to promote the ratification of the Convention, including during visits undertaken to different States and bilateral meetings held with its representatives.

VII. Activities of United Nations agencies and organizations, intergovernmental and non-governmental organizations

61. A number of intergovernmental and non-governmental organizations have undertaken efforts at the national, regional and global levels to disseminate information on the Convention, promote understanding of it, prepare for its entry into force and assist States parties in implementing their obligations under this instrument.

62. Regarding civil society, Amnesty International indicated that it had submitted to the attention of the Committee on Enforced Disappearances the second edition of its *Fair Trial Manual*, which contains a number of recommendations for States in order to guarantee that trials before national courts are fair and, in particular, that military courts do not have competence to prosecute those suspected of criminal responsibility for enforced disappearance. In addition, Amnesty International also provided briefings to the Committee in relation to its reviews of Mexico and Serbia,

and provided information in advance of the adoption of the list of issues on Iraq and Montenegro.

63. The International Coalition against Enforced Disappearances, which comprises 55 NGOs, has been globally promoting its mandate to lobby actively for universal ratification and implementation of the Convention, the recognition of the competence of the Committee on Enforced Disappearances under articles 31 and 32 of the Convention and the enactment of domestic laws that criminalize enforced disappearance. In July 2014, the Coalition organized the Third Psychosocial Conference in the Search for Truth and Justice for Victims of Enforced Disappearances, Torture and Extrajudicial Killings. The Coalition released statements on the occasion of the fourth anniversary of the entry into force of the Convention; of the International Day for the Victims of Enforced Disappearance in 2014; of the International Week of the Disappeared in 2015. TRIAL (Swiss Association against Impunity), which is a member of the International Coalition against Enforced Disappearances, has supported the work of the Committee by submitting alternative reports and other documents in relation to the country reviews of Mexico and follow-up to reviews in relation to France, Germany and Spain. TRIAL promoted the ratification of the Convention specifically in Burundi and Nepal. TRIAL has consistently referred to the Convention in relation to alternative reports it has submitted to other human rights treaty bodies and to allegations submitted to special procedures of the Human Rights Council. TRIAL is also litigating cases of enforced disappearance concerning different countries before the European Court of Human Rights and the Human Rights Committee, referring to the Convention as the highest standard in the field. TRIAL has collaborated with other civil society organizations on reports and publications related to treaty bodies. Representatives of TRIAL have also participated in a series of conferences and seminars on enforced disappearances over the reporting period.

VIII. Conclusion

64. **The Secretary-General strongly encourages all States that have not yet become parties to the International Convention for the Protection of All Persons from Enforced Disappearance to take the necessary measures to do so and to accept the competence of the Committee on Enforced Disappearances under articles 31 and 32 of the Convention. The Secretary-General and the United Nations High Commissioner for Human Rights will continue their intensive efforts to assist States in becoming parties to the Convention and in ensuring its full implementation.**

Annex

States that have signed, ratified or acceded to the Convention for the Protection of All Persons from Enforced Disappearance as at 22 July 2015

Participant	*Signature*	*Accession or ratification*
Albania[a]	6 February 2007	8 November 2007
Algeria	6 February 2007	
Angola	24 September 2014	
Argentina[a]	6 February 2007	14 December 2007
Armenia	10 April 2007	24 January 2011
Austria[a]	6 February 2007	7 June 2012
Azerbaijan	6 February 2007	
Belgium[a]	6 February 2007	2 June 2011
Benin	19 March 2010	
Bolivia (Plurinational State of)	6 February 2007	17 December 2008
Bosnia and Herzegovina[a]	6 February 2007	30 March 2012
Brazil	6 February 2007	29 November 2010
Bulgaria	24 September 2008	
Burkina Faso	6 February 2007	3 December 2009
Burundi	6 February 2007	
Cabo Verde	6 February 2007	
Cambodia		27 June 2013[b]
Cameroon	6 February 2007	
Chad	6 February 2007	
Chile[a]	6 February 2007	8 December 2009
Colombia	27 September 2007	11 July 2012
Comoros	6 February 2007	
Congo	6 February 2007	
Costa Rica	6 February 2007	16 February 2012
Croatia	6 February 2007	

Participant	*Signature*	*Accession or ratification*
Cuba[a]	6 February 2007	2 February 2009
Cyprus	6 February 2007	
Denmark	25 September 2007	
Ecuador[a]	24 May 2007	20 October 2009
Finland	6 February 2007	
France[a]	6 February 2007	23 September 2008
Gabon	25 September 2007	19 January 2011
Germany[a]	26 September 2007	24 September 2009
Ghana	6 February 2007	
Greece	1 October 2008	9 July 2015
Grenada	6 February 2007	
Guatemala	6 February 2007	
Guinea-Bissau	24 September 2013	
Haiti	6 February 2007	
Honduras	6 February 2007	1 April 2008
Iceland	1 October 2008	
India	6 February 2007	
Indonesia	27 September 2010	
Iraq		23 November 2010[b]
Ireland	29 March 2007	
Italy	3 July 2007	
Japan[a]	6 February 2007	23 July 2009
Kazakhstan		27 February 2009[b]
Kenya	6 February 2007	
Lao People's Democratic Republic	29 September 2008	
Lebanon	6 February 2007	
Lesotho	22 September 2010	6 December 2013
Liechtenstein	1 October 2007	
Lithuania[a]	6 February 2007	14 August 2013

Participant	*Signature*	*Accession or ratification*
Luxembourg	6 February 2007	
Madagascar	6 February 2007	
Maldives	6 February 2007	
Mali[a]	6 February 2007	1 July 2009
Malta	6 February 2007	27 March 2015
Mauritania	27 September 2011	3 October 2012
Mexico	6 February 2007	18 March 2008
Monaco	6 February 2007	
Mongolia	6 February 2007	12 February 2015
Montenegro[a]	6 February 2007	20 September 2011
Morocco	6 February 2007	14 May 2013
Mozambique	24 December 2008	
Netherlands[a]	29 April 2008	23 March 2011
Niger	6 February 2007	
Nigeria		27 July 2009[b]
Norway	21 December 2007	
Palau	20 September 2011	
Panama	25 September 2007	24 June 2011
Paraguay	6 February 2007	3 August 2010
Peru		26 September 2012
Poland	25 June 2013	
Portugal[a]	6 February 2007	27 January 2014
Republic of Moldova	6 February 2007	
Romania	3 December 2008	
Samoa	6 February 2007	27 November 2012
Senegal	6 February 2007	11 December 2008
Serbia[a]	6 February 2007	18 May 2011
Sierra Leone	6 February 2007	
Slovakia	26 September 2007	15 December 2014

Participant	*Signature*	*Accession or ratification*
Slovenia	26 September 2007	
Spain[a]	27 September 2007	24 September 2009
St. Vincent and the Grenadines	29 March 2010	
Swaziland	25 September 2007	
Sweden	6 February 2007	
Switzerland	19 January 2011	
Thailand	9 January 2012	
The former Yugoslav Republic of Macedonia	6 February 2007	
Togo	27 October 2010	21 July 2014
Tunisia	6 February 2007	29 June 2011
Uganda	6 February 2007	
United Republic of Tanzania	29 September 2008	
Uruguay[a]	6 February 2007	4 March 2009
Vanuatu	6 February 2007	
Venezuela (Bolivarian Republic of)[a]	21 October 2008	
Zambia	27 September 2010	4 April 2011

[a] States that have made declarations recognizing the competence of the Committee under articles 31 and/or 32 of the Convention. The full text of the declarations and reservations made by States parties can be found at http://treaties.un.org.

[b] Accession.

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Seventieth session
Item 20 of the provisional agenda*
Sustainable development

Role of transport and transit corridors in ensuring international cooperation for sustainable development

Report of the Secretary-General

Summary

Pursuant to General Assembly resolution 69/213, the present report conveys the views of Member States and relevant regional and international organizations and entities of the United Nations system, including the regional commissions, on issues relating to the development of transport and transit corridors.

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I. Introduction

1. At its sixty-ninth session, the General Assembly adopted resolution 69/213 on the role of transport and transit corridors in ensuring international cooperation for sustainable development. In that resolution, the General Assembly recognized the important role of environmentally sound, safe, efficient, reliable and affordable transport and transit corridors for the efficient movement of goods and people in supporting sustainable economic growth, improving the social welfare of people and enhancing international cooperation and trade among countries, recognized the need for continued international cooperation to address the issues relating to transport and transit corridors as an important element of sustainable development, and invited the Secretary-General to seek the views of Member States, relevant regional and international organizations and entities of the United Nations system, including the regional commissions, on issues relating to the development of transport and transit corridors and to communicate such views in a summary report to the General Assembly at its seventieth session.

2. The present report was prepared in accordance with that resolution. It provided a summary of the views of Member States, relevant regional and international organizations, and entities of the United Nations system, including the regional commissions, on issues relating to the development of transport and transit corridors.

II. Views of Member States

3. The Secretariat received submissions from Azerbaijan, Brunei Darussalam, Georgia, Paraguay, the Russian Federation, Turkey and Turkmenistan.

4. A summary of the views reflected in those submissions is contained in the present section.

5. Azerbaijan provided information on its work in the field of transport and transit corridors, which included:

(a) Infrastructure projects of international significance implemented to increase transit potential, such as the new Baku-Tbilisi-Kars railway line, which provided a direct railway connection between Europe and Asia through the Caucasus. The first test train to the border with Turkey via Georgia was launched on 26 December 2014, and the construction of a tunnel on the border between Turkey and Georgia had been completed. The New Baku International Sea Trade Port Complex was constructed in September 2014, to ensure the widespread use of multimodal transport and to facilitate and increase maritime transportation capacity in the Caspian region, with the ferry terminal commissioned as part of the first phase of the project. Work was continuing on the reconstruction of the railway infrastructure, main roads and energy supply, the upgrading of locomotives and wagons, increasing the amount of rolling stock and the adjustment of communication and signal systems to international standards. Work was also ongoing on the reconstruction of international motorways. Currently, maintenance and reconstruction of roads on the State borders with the Russian Federation, Georgia and the Islamic Republic of Iran were being implemented in compliance with the standards of the first technical level;

(b) A legislative framework was being developed and other activities were under way in the field of transit policy, such as the integration of the transport network of Azerbaijan into the Trans-European Transport Network in the East-West direction within the European Union. In the field of transport, Azerbaijan was working on achieving high-level cooperation with the Economic Commission for Europe (ECE) and the Economic and Social Commission for Asia and the Pacific (ESCAP). Appropriate steps were being taken by Azerbaijan, Georgia, Kazakhstan and Turkey for the realization of the "Silk Wind" project, with a view to the creation of regular and efficient container train routes by shortening transportation time and facilitating customs services, as well as the overall transportation process, along the East-West transport corridor. It was planned to create a modern highway and ancillary road infrastructure along the Baku-Tbilisi-Batumi-Trabzon route (1,135 km) as part of the Model Highway Initiative, put forward by the International Road Transport Union. Azerbaijan had ratified 15 ECE conventions and agreements on transport, and work on the ratification of 10 further ECE conventions and agreements, including those on the Trans-European Railway and Trans-European Motorways, was in progress. The accession of Azerbaijan to the Convention concerning International Carriage by Rail had been endorsed by the National Assembly, and the relevant measures were being carried out for it to become a member of the Intergovernmental Organization for International Carriage by Rail and in relation to other procedural issues deriving from the Convention.

6. Brunei Darussalam indicated that it supported the proposal relating to the need for coordination between agencies and government entities involved in facilitating cross-border routes, as well as international cooperation in addressing cross-border issues and transportation with a view to achieving sustainable transport. The matter was being actively discussed by the Association of Southeast Asian Nations (ASEAN) and the members of the Brunei Darussalam Indonesia Malaysia the Philippines-East ASEAN Growth Area (BIMP-EAGA), which supported the strengthening of regional economic integration of ASEAN and BIMP-EAGA members. As a small market economy, cross-border routes in particular were an important means for Brunei Darussalam to promote trade and increase the amount of commercial cargo.

7. Georgia provided detailed information on the transit potential of its transport network, as follows:

(a) Located at the crossroads of Europe and Central Asia, Georgia was a bridge connecting several important economic regions, including the European Union, the Caucasus region, the Commonwealth of Independent States and Turkey. It was a key link in the shortest transit route between Western Europe and Central Asia for the transport of oil and gas, as well as dry cargo. Georgian oil and gas pipelines, and the country's Black Sea ports, highways, railway systems and airports were playing an increasingly important role in linking East and West. In order to facilitate the transport of goods through Georgian territory, the Government of Georgia was continuing to liberalize regulations on international transport, develop the transport infrastructure, including roads, railways, seaports and airports, simplify customs and other administrative procedures, and introduce economic reforms in the field;

(b) The long-term vision for the development of transit potential in Georgia included: integration into international transport networks; the development of

logistics facilities and services; supporting the development of multimodal transport systems; upgrading the transport infrastructure; improving safety conditions; forming competitive transportation tariffs; attracting cargo flows from the regions of China; creating competitive conditions in the corridor; acceding to international agreements; and developing cooperation with international organizations;

(c) The Government of Georgia actively cooperated on ongoing projects with international organizations, such as the European Commission, the Transport Corridor Europe-Caucasus-Asia (TRACECA) programme, ECE, ESCAP, the International Transport Forum, the Organization of the Black Sea Economic Cooperation, the Organization for Democracy and Economic Development, the International Road Transport Union, the World Bank, the Asian Development Bank and the United States Agency for International Development;

(d) Georgia actively participated in the important regional project TRACECA:

(i) Georgia had been a member of TRACECA since 1993. TRACECA was a technical assistance programme aimed at developing the transport corridor between Europe and Asia across the Black Sea and the Caspian Sea, and the countries of the South Caucasus and Central Asia. The States members of TRACECA were Armenia, Azerbaijan, Bulgaria, Georgia, Iran (Islamic Republic of), Kazakhstan, Kyrgyzstan, Moldova, Romania, Tajikistan, Turkey, Ukraine and Uzbekistan. TRACECA transport networks passed through the territories of countries with an abundance of mineral resources and energy supply. Transit development in those countries affected the growth of production and employment in the regions;

(ii) Since it was launched in 1993, TRACECA had financed 80 projects, including more than 60 on technical assistance and 14 on investments. The programme enhanced the capacity of the partner countries to access European and world markets through alternative transport routes, increasing the political and economic independence of the countries concerned. The cooperation framework covered the areas of maritime transport, aviation, roads and railways, transport security and transport infrastructure. The framework contributed to regional cooperation among the partner countries and helped attract support from international financial institutions and private investors;

(iii) The Basic Multilateral Agreement on International Transport for Development of the Europe-the Caucasus-Asia Corridor, signed in 1998 in Azerbaijan, was the key TRACECA document, establishing the legal basis for the development of economic relations, and trade and transport communication in the region. Georgia actively participated in the technical assistance projects under TRACECA, and was facilitating the development of a legislative basis. Georgia also contributed to enhancing cooperation among the Black Sea countries and had proposed a new technical annex to the Basic Multilateral Agreement on Joint Operation of Railway-Ferry Links between the Parties of the Basic Multilateral Agreement on the Black Sea and the Caspian Sea, which was currently under deliberation. The new technical annex was signed on 29 January 2015.

(e) The ongoing projects under TRACECA included:

(i) Maritime safety and security II project. This European Union-funded project was a response to the interest of the European Union in developing cooperation in maritime safety, security and protection of the marine environment by providing technical expertise and support to the member countries of the Transport Corridor Europe-Caucasus-Asia. The overall objectives of the project were to align the partners' legislation with the European Union regulatory framework, support the further ratification and implementation of international maritime safety and security conventions of the International Maritime Organization (IMO) and the International Labour Organization (ILO), and improve the quality and coordination of maritime administrations in the Black Sea and Caspian Sea partner countries;

(ii) Road Safety II project. The overall objective of the project was to support the implementation of the TRACECA Regional Road Safety Action Plan, ensuring that the corridor transport system actively promoted the safety, security and protection of users, property, the general public and the environment, where they might be involved in or affected by the system, and assisting countries in strengthening institutional capacity;

(iii) Transport dialogue and networks interoperability II project. The main purpose of the project was to strengthen economic relations, trade and transport links between the European Union and the countries participating in the programme: Armenia, Azerbaijan, Bulgaria, Georgia, Iran (Islamic Republic of), Kazakhstan, Kyrgyzstan, Moldova, Romania, Tajikistan, Turkey, Turkmenistan, Ukraine and Uzbekistan. The project would contribute to the development and implementation of regional transport policy actions, such as activities under the TRACECA Action Plan related to infrastructure development, the facilitation of multimodal transport and the harmonization of transport legislation;

(iv) Development of the transport corridor between the Baltic Sea and the Black Sea: Ukraine had drafted an agreement on the development of the transport corridor between the Baltic Sea and the Black Sea. The purpose of the agreement was to develop the transit corridor between the member countries of the agreement. The parties to the agreement were Azerbaijan, Belarus, Bulgaria, Estonia, Georgia, Latvia, Lithuania, Moldova, Poland, Turkey and Ukraine. Implementation of the project would improve cooperation in transport and trade among the countries by creating suitable conditions for carriers, increasing transportation safety and attracting additional cargo flows. Georgia was currently going through internal procedures with regard to accession to the agreement;

(v) The lapis lazuli project. The Government of Georgia was actively participating in the project. It had been initiated by the Government of Afghanistan, which envisaged the conclusion of a trade, transit and transportation cooperation agreement among the Governments of Afghanistan, Azerbaijan, Georgia, Turkey and Turkmenistan. The main goal of the project was to promote the most commercially viable route between Afghanistan and Europe. The project would be of paramount importance in the development of the transit potential of member countries and in attracting additional cargo flows in the Europe-Caucasus-Asia transport corridor;

(f) Large infrastructure projects include:

(i) Construction of the Anaklia new deep water Black Sea port. The Government of Georgia attached great importance to the construction of the new deep sea port in Anaklia. The Anaklia port would have the following competitive advantages: a strategic location; the capacity to receive Panamax-type vessels; one-stop-shopping solutions; simple, fast procedures; and year-round safe navigation. The construction of the new port was strategically important, and would result in a significant increase in cargo turnover through Georgia. The port would gradually reach capacity for handling 100 million tons of cargo. The Government of Georgia was also considering establishing a free industrial zone in the area adjacent to the port;

(ii) Baku-Tbilisi-Kars new railroad line project: The Baku-Tbilisi-Kars railway was a new corridor that would connect the Azerbaijani, Georgian and Turkish railways. Project implementation had begun in 2008, and the main part of the construction would be finished in Georgian territory in 2015. The project involved the rehabilitation and reconstruction of 178 km of railway between Marabda and Akhalkalaki and the construction of a new railway from Akhalkalaki to the Turkish border. The project would effectively open a new rail corridor from the Caspian Sea to Europe, through Turkey. The project would be an important driver of future incremental transport volumes and for containerized cargo in particular. The test train was launched in January 2015;

(iii) Georgian railway modernization project. This project was focused on the main line that ran from Tbilisi to the Black Sea, and, particularly, on the terminals at Poti and Batumi. As part of the project, the Company intended to modernize the railway and electrical supply infrastructure between Tbilisi and Batumi, including the 40-kilometre mountainous gorge region in Central Georgia, with the aim of achieving passenger train speeds of 80 km an hour on the gorge section, and 120 km an hour on the rest of the main line, as compared with current average speeds of approximately 55 km an hour in the gorge section, and approximately 65-90 km an hour on the rest of the main line;

(iv) East-West Highway improvement project. The Government of Georgia was conducting the construction and rehabilitation of the East-West Highway in accordance with international standards. The project involved upgrading the highway from two to four lanes. Development of the Georgian road network was in progress and the World Bank, the Asian Development Bank, the Japanese International Cooperation Agency, the European Investment Bank and the European Bank for Reconstruction and Development were among international donor organizations supporting the work;

(g) Other projects on transport and transit corridors included:

(i) Tbilisi Silk Road Forum: The first meeting of the Forum would take place on 15 and 16 October 2015 in Tbilisi. The meeting would explore new initiatives for enhancing partnership in four main areas of cooperation: transport, energy, trade and people-to-people contact. The idea of the Silk Road was not new. However, the mission was far from being accomplished. The level of economic, political and cultural interdependence of the countries of the region was continually increasing, and the opportunities and challenges

were becoming progressively more intertwined. The economies of the countries of the region were showing a promising tendency towards improvement; however, competition over natural resources, disputes over boundaries and disagreements over values were driving further wedges between countries and subregions across the continent;

(ii) New Silk Road economic belt. Georgia was participating in the project, which had been initiated by China. The Silk Road Fund was established in February 2015. It had funding of $40 billion, which was allocated to support transport infrastructure, logistics and energy projects in the States involved in the project. The implementation of the project would simplify cargo transfer between States participating in the project and regions, and trade and economic relations. It would also attract additional investments, create new jobs and promote the development of participant States;

(iii) Railway freight transportation from China to Georgia. In February 2015, the first railway freight transportation from China to Georgia was carried out. The project was the result of close cooperation among Azerbaijan, China, Georgia and Kazakhstan. The Trans-Asian-Caucasian train made it possible to reduce transit time to a fifth of that of carriage by sea. If, for example, 40-45 days were required for sea transportation from China, freight would arrive in Georgia within 9 days by the new rail route.

8. Paraguay indicated that it sat on the South American Infrastructure and Planning Council, the regional integration and infrastructure forum of the Union of South American Nations. The Council was established in January 2009 to engage in political and strategic discussions geared towards integrating the regional infrastructure of the member States of the Union through consultation, evaluation, cooperation and planning and by coordinating efforts and linking programmes and projects. The statute and the regulations of the Council were adopted in December 2009, paving the way for the Initiative for the Integration of Regional Infrastructure in South America. In 2011, the Council worked to design the Strategic Action Plan (2012-2022) and the Integration Priority Project Agenda. The following projects, which were closely linked to the improvement of the transit corridors of Paraguay and involved joint investment, were among the most important on the Agenda: the Paranaguá-Antofagasta Bioceanic Railway Corridor (Argentina, Brazil, Chile and Paraguay); the Foz do Iguaçú-Ciudad del Este-Asunción-Clorinda road connection; the 500-KV transmission line linking Itaipú, Asunción and Yacyretá; improvement of navigation conditions on the rivers of the La Plata Basin; the Paraguay and Argentina-Uruguay railway interconnection; and the Infante Rivarola-Cañada Oruro border crossing (Paraguay and Bolivia (Plurinational State of)).

9. Turkey stated that, in line with its multidimensional, principled and human-oriented foreign policy, with the importance it attached to regional and global cooperation, that it was undertaking the necessary steps, as a natural outcome of its unique geographical situation, to develop alternative transport links between Europe and Asia to accommodate rising freight traffic between Asia and Europe. In pursuance of international cooperation in transport and transit corridors, as referred to in General Assembly resolution 69/213, Turkey was implementing alternative road and railway projects to improve cross-border transportation infrastructure, with the ultimate aim of enhancing prosperity and living standards for the peoples of all the countries concerned, in an inclusive manner.

10. Turkmenistan stated that the development of national transport infrastructure and its integration into international transport and communications networks were becoming matters of the utmost importance, as they played a major role in enabling States to participate in global development processes. Turkmenistan had developed its own vision for engagement with the international community in the field of transport. The main goal of that vision was the advancement of scientifically justified and practicable models of multilateral partnership in the transport sector and the establishment of a set of legal, institutional, economic, technical and other conditions necessary to enhance and improve the efficiency of international transport and transit communications.

11. Turkmenistan proposed the following policy recommendations on transport and transit corridors:

(a) Consistently develop transport capacity, and initiate and implement major international and regional transport projects;

(b) Give impetus to interregional linkages with a long-term perspective. Diversification, a key concept underlying States' transport strategies, must be seen as a decisive factor in the formation of multimodal continental transport infrastructure;

(c) One of the most important tasks was the consistent integration of States' transport systems into the international communications network. One expected result of these efforts would be the establishment of the transport logistics centres required for multimodal transport. New transport corridors would expand the market for transport services. This in turn would require an active foreign trade marketing policy, the optimization of tariffs with countries participating in international transport corridors and a flexible system of tariff preferences;

(d) Continue to define a network of international, regional and interregional integrated intermodal transport corridors and to formalize these through the adoption of new international and regional agreements;

(e) Conduct an analysis of corridors in order to identify physical and non-physical barriers on the basis of best international practices;

(f) Develop and implement national strategies and action plans for the development of international transport and transit facilities, with a particular focus on facilitating transport, simplifying border-crossing procedures and introducing modern transport logistics technologies. Ensure that national strategies and action plans were well coordinated with neighbouring States;

(g) Develop transport and supporting infrastructure in a consistent and interconnected manner, so as to provide international transport and trade links;

(h) Speed up the process of accession to United Nations agreements and conventions on transport and their effective implementation at the national level;

(i) Broaden participation in multilateral and regional agreements on transport, transit and trade, with a view to accelerating economic growth;

(j) Ensure effective implementation of United Nations agreements and conventions and regional and bilateral agreements on transport, transit and trade facilitation, as applicable, with a view to reducing transport prices and time;

(k) Continue to work towards operational interoperability of transport infrastructure and rolling stock, especially in neighbouring regions, through harmonization of technical regulations on the basis of international norms and standards, including those contained in United Nations agreements and conventions;

(l) Support countries in identifying resources, including greater use of public-private partnership schemes, to finance the development of transport networks and key transport corridors;

(m) Build capacity and carry out legal, regulatory and policy reform to create an enabling environment for greater public and private investment in transport infrastructure;

(n) Mobilize funding from international financial institutions and regional development banks to implement national infrastructure development projects along transport corridors;

(o) Help developing countries, in particular landlocked developing countries, to develop the capacity to prepare bankable, large-scale infrastructure projects and to explore innovative financing mechanisms for those projects, including public-private partnerships, where appropriate;

(p) Promote the development of regional infrastructure funds and commercial investment associations with the possible inclusion of investments from other countries, transnational companies and private investors for the implementation of joint investment projects, and increase the efficient use of transport and supporting infrastructure;

(q) Promote further regional integration by strengthening regional trade, transport and transit. Promote the harmonization of regional transport strategies, with a view to strengthening synergies, enhancing the competitiveness of transport corridors at the regional and global levels and strengthening international supply chains;

(r) Foster greater participation by landlocked developing countries in international transport projects and in bilateral and regional integration agreements in the areas of trade, transport and transit;

(s) Promote the launch and start-up in 2016 of the Global Partnership for Sustainable Transport, involving Governments, international organizations and businesses, as an innovative multilateral mechanism for the development and harmonization of transport in the context of globalization;

(t) Facilitate the formulation and implementation of national and regional transport strategies aimed at making a practical contribution to the economic, social and environmental dimensions of sustainable development;

(u) Promote the establishment of effective and affordable transport systems for poverty reduction, and take measures to mitigate the adverse impacts of transportation on health and the environment;

(v) Ensure more comprehensive development of transport, inter alia by including rural roads in programmes for the broader development of road networks;

(w) Promote public transport as an important element of mobility and tourism development along international transport corridors;

(x) Carry out activities at the national, subregional, regional and global levels for follow-up and review of the Vienna Programme of Action for Landlocked Developing Countries for the Decade 2014-2024;

(y) Mainstream the Vienna Programme of Action into national and sectoral development strategies, in order to ensure their effective implementation;

(z) As appropriate, establish national coordination mechanisms in landlocked developing countries and transit developing countries;

(aa) Develop and implement national and regional plans to improve road safety along international road transit corridors, in line with the Global Plan for the Decade of Action for Road Safety;

(bb) Intensify efforts to ensure security and to combat illegal migration and other illicit activity and terrorism in all international transport corridors and in all modes of transportation;

(cc) Intensify cooperation for the prevention and elimination of natural and man-made disasters along transport corridors and the implementation of joint environmental projects on transport.

12. The Russian Federation indicated that one of the issues in international rail transport development was the creation of favourable conditions for passenger trains to cross State borders efficiently. This was a complex issue to resolve because of the need to negotiate agreements that took into account the interests of international train passengers, railway companies and government monitoring bodies. Currently, these issues were regulated by the International Convention to Facilitate the Crossing of Frontiers for Passengers and Baggage carried by Rail of 10 January 1952, which defined the basic principles for the functioning of border stations, the review of operations, the establishment of a customs regime and the simplification of customs control. However, while on the one hand a majority of the participating countries had not ratified the Convention (only 10 States were parties to it) and, indeed, it had lost its relevance as more recent agreements had come into force, on the other hand developments in transport and in States' legislation on border-crossing issues had created an environment conducive to the development of a modern legal instrument to facilitate border crossing in international passenger rail transport.

13. At the seventy-sixth session of the Inland Transport Committee of the Economic Commission for Europe, held in Geneva in February 2014, the Russian Federation suggested that this matter be considered. The initiative was supported by participants, and a decision was taken to establish, under the auspices of the United Nations, an informal working group to prepare a draft convention on the facilitation of crossing of frontiers for passengers and baggage carried by rail. The Russian Federation had prepared an outline for the new convention, which was endorsed by the participants in the informal working group.

14. At its second meeting in April 2015, the working group considered the preliminary draft convention on the facilitation of State border crossing in the international rail transport of passengers, baggage and cargo submitted by the Russian Federation, which was based on the principles of the framework document, and did not contain excessive detail or conditions for bilateral and multilateral cooperation between countries. When the draft had been finalized, it would be

submitted for discussion to the eighth Interagency Consultative Meeting on Facilitation of Border Crossing in International Freight and Passenger Traffic by Rail of the Organization for Co-operation between Railways, to be held in September 2015 in Gdansk, Poland.

15. The Russian Railways Company and the Russian Academy of Sciences were initiating and developing the concept for a new "mega-project" for a trans-Eurasian belt development, which was of paramount importance in the development of the railway industry in Europe and Asia. It would be based on a comprehensive infrastructure system, with a flexible combination of transport, energy and telecommunications systems. The key feature of the belt development was global and solidarity-based socioeconomic development of countries and regions. It should be noted that the start-up infrastructure and the logistical basis for implementing the project concept had been established and were working effectively:

(a) Russian Railways was implementing a programme to develop an integrated eastern polygon, including the Baikal-Amur Railway and the Trans-Siberian Railway, which were an integral part of the East-West transport corridor;

(b) Thanks to the renovation of a section of the Khasan (Russian Federation)-Rajin (Democratic People's Republic of Korea) railway and the construction of a cargo terminal in the port of Rajin by Russian Railways, a new route had been created for the delivery of goods in both directions between countries in the Asia-Pacific region and Europe, with transit through the territory of the Democratic People's Republic of Korea;

(c) The increase in regular shipments between Chongqing, China, and Duisburg, Germany, (more than 490 container trains had used the route), together with the use of the common Uniform Rules concerning the Contract for International Carriage of Goods by Rail/Agreement on International Railway Freight Communications (CIM/SMGS) consignment note (94 container trains), had consistently developed and improved supply chains in the direction China-Europe;

(d) The establishment at the end of 2014, on the initiative of the railway companies of the Eurasian Economic Union (Russian Railways, Kazakhstan Temir Zholy and Belarusian Railways), of the United Transport and Logistics Company, was an important step in strengthening and expanding Euro-Asian links. The company included the largest operating companies of the three States concerned. To date, this was the only large integration business project of the Eurasian Economic Union, and it had been fully operational since 1 January 2015.

III. Views of relevant regional and international organizations and entities of the United Nations system, including the regional commissions

16. The Secretariat received input from the Economic Commission for Latin America and the Caribbean (ECLAC), the International Labour Organization (ILO), the United Nations Conference on Trade and Development (UNCTAD), the United Nations Human Settlements Programme (UN-Habitat), the Office of the High Representative for the Least Developed Countries, Landlocked Developing Countries and Small Island Developing States, the World Food Programme (WFP) and the World Health Organization (WHO).

17. A summary of views reflected in those inputs is contained in the present section.

18. ECLAC noted that the performance of national and regional transport systems was a key factor for achieving the sustainable development goals and, in the particular case of the ECLAC region, for progressing towards greater economic and social equality. The ECLAC region had achieved significant progress in developing regional transport corridors and addressing transit issues. Developing regional transport infrastructure networks and/or creating or improving the regular framework for international transport and transit operations represented a core activity of the major integration initiatives in the region.[1] In addition, most ECLAC countries were contracting parties to regional and global transport agreements, which facilitated international transport and transit operations.[2]

19. Some challenges existed, such as the lack or low quality of infrastructure, inefficient border-crossing procedures, the generally limited use of more sustainable modes of transport (rail and inland water) and deficiencies in the design and implementation of existing public policies. In that context, the current priority of ECLAC consisted in helping countries advance towards improving national public policies on logistics and mobility and providing technical assistance to the regional integration initiatives in drawing up a regional strategy in that area. The integrated and sustainable approach to transport issues at both the national and the regional levels was a fundamental basis for international cooperation on transport and transit corridors.

20. International transport corridors should be identified, designed and implemented, keeping in mind the competitive advantages of each mode of transport and addressing both infrastructure needs and the regulatory and institutional framework for the services that those corridors provide. International and national efforts in this area should mobilize all stakeholders. There was a need to incorporate, in a balanced manner, all the dimensions of sustainable development. Integrated and sustainable public policies on logistics and mobility were needed both at the national and regional level to provide a solid foundation for successful international cooperation on transport and transit corridors.

21. ILO emphasized that the transport sector employed many workers in a wide range of job categories. The sector's resilience and sustainability, including in the development of transport and transit corridors, also depended on providing decent working conditions to its workforce. Regional economic integration and cooperation efforts should not neglect the social aspects of the transport sector. The main efforts of ILO focused on the promotion of social dialogue, workplace occupational safety and health, workforce gender balance, improving working conditions, and analysis of employment relationships and their impact on decent work.

22. Some of the transport activities carried out by the ILO Transport and Maritime Unit of the Sectoral Policies Department included:

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[1] Including the Union of South American Nations, the Central American Integration System, the Mesoamerican Integration and Development Project, the Latin American Integration Association, the Southern Common Market (MERCOSUR) and the Andean Community.

[2] An overview of the regional transport and transit-related initiatives and agreements is available in ECLAC, "The future of trade and transport facilitation: implications of the WTO Trade Facilitation Agreement", in *FAL Bulletin*, No. 333 (5/2014) (Santiago, Chile, 2014).

(a) Sectoral Meeting on Safety and Health in the Road Transport Sector (12-16 October 2015). The purpose of the Meeting would be for tripartite constituents to discuss priority safety and health issues in relation to both passenger and freight road transport, with a view to adopting conclusions on future programme development and to informing policy-making on the selected topic at the international, regional and national levels. The promotion of HIV/AIDS tools and the IMO/ILO/ECE Code of Practice for Packing of Cargo Transport Units would also be discussed;

(b) Manual for Social Dialogue in the Railways Sector, 2015. The Manual was aimed at providing a summary background on recent developments in the sector and serving as a basic practical guide to initiate social dialogue;

(c) Tripartite Meeting of Experts to update the ILO code of practice on safety and health in ports (October 2016). The meeting was for the review and update of the ILO code of practice on safety and health in ports;

(d) Port worker Development Programme in Bulk Terminals, 2015-2017. The Programme drew on previous experience and on existing training materials for the terminals dealing with bulk cargo. It would enable Governments and port authorities to establish effective and systematic port-worker training schemes designed to improve cargo-handling performance, working conditions and practices, safety and the welfare of port workers in bulk terminals;

(e) IMO/ILO/ECE Code of Practice for Packing of Cargo Transport Units. The Code provided information and advice to parties involved along the supply chain and broadened the scope of the 1997 Guidelines for Packing of Cargo Transport Units;

(f) HIV/AIDS toolkits. These were prepared in collaboration with other partners and were entitled "Driving for change: training toolkit on HIV/AIDS for the road transport sector" in 2008 and "On the right track: training toolkit on HIV/AIDS for the road transport sector" in 2010.

23. UNCTAD stated that transport infrastructure and services, including along transport corridors, were at the heart of international supply chains, trade and globalization. Their resilience and sustainability could however be significantly undermined by environmental factors, such as climate variability and change. Adapting freight transport systems to the impacts of climate change and building their climate resilience was therefore an imperative that should form an integral part of the management strategies for transport corridors.

24. UNCTAD noted that the potential shift to sustainable transport could result, by 2050, in as much as $20 trillion in savings in terms of global land transport infrastructure investments and maintenance costs. For freight transport infrastructure and systems, including along transport corridors, sustainability and resilience criteria needed to be taken into account at the early stages of infrastructure and equipment investment, development and procurement planning. Scaling up investment levels and diversifying sources of funding were crucial. Mainstreaming sustainability and resilience criteria into freight transport and corridor development planning, policies and investment decisions required a multi-stakeholder approach.

25. In 2012, UNCTAD had finalized a cross-border and transit transport process management toolkit on corridor development, which was implemented in two transit corridors, namely the central corridor in East Africa and the Almaty-Bishkek-Dushanbe corridor in Central Asia. Regional capacity-building workshops were organized in both regions, as was national capacity building training in the countries crossed by these corridors. Three manuals on transport and transit corridors were developed: on cluster development methodology, on transit corridor analysis and on supply chain management methodology applied to transit corridors, which were integrated in the toolkit. The toolkit was part of the activities of a project executed by ESCAP, in cooperation with UNCTAD and ECA, on capacity-building for control authorities and transport operators to improve efficiency of cross-border transport in landlocked and transit developing countries.

26. The United Nations Human Settlements Programme (UN-Habitat) indicated that transport and transit corridors were intended to boost economic growth at the local, regional and international levels; promote connectivity between cities, peoples and resources; facilitate intra-regional and inter-regional trade and provide landlocked countries with access to international gateways such as ports. Transit and transport corridors could serve multiple jurisdictions, and domestic, foreign and transit traffic. On domestic routes, urban corridors played a key role in the movement of people within a city, its peri-urban areas and rural hinterlands.

27. Transport and transit corridors played a key role in regional integration, international cooperation and the promotion of local, national, regional and international trade. Development of transport and transit corridors needed a vast and reliable source of funding to initiate corridor development work and facilitate investment in the corridor and all associated services, such as monitoring and evaluation. The public sector was mainly involved in providing infrastructure and regulation functions along the corridor, and private sector players could be engaged in financing and aiding the operations of transport and transit corridors, such as by providing carriers and transfer facilities. Public-private partnership was therefore crucial for a well-functioning transport corridor.

28. Transit time and cost, flexibility and reliable schedules along a corridor defined the quality of services provided and the level of competitive advantage over other corridors. The availability of multimodal transport along a transit corridor improved its options and the price ranges which could be used in delivering goods and services, depending on demand and market trends. Poor connectivity, inadequate interoperations, or the absence thereof, and limited market access for market providers led to inefficiencies in international corridors. Customs reforms and facilitation of trade at the regional and international levels were key components in improving corridor performance. Change was needed in the management of corridor infrastructure, gateways, internal nodes, transfer points and border points to improve the efficiency of corridors and the entire support infrastructure.

29. Stakeholder inclusion in corridor development allowed for project adoption by various stakeholders, the sharing of indigenous knowledge regarding the development and proposed routes, ease of formulation of project policy goals and proposals, and ease of implementation of projects. Accordingly, an integrated approach would be taken in the whole process. This had a higher chance of success than any corridor investment. Sustainable transport solutions were implemented by

UN-Habitat, in collaboration with partners in different parts of the world, such as the project on sustainable transport solutions in East African cities.

30. The Office of the High Representative for the Least Developed Countries, Landlocked Developing Countries and Small Island Developing States noted that landlocked developing countries faced special challenges linked to their lack of access to the sea, further exacerbated by remoteness from major markets, inadequate infrastructure, cumbersome border crossings and logistical bottlenecks that prevented them from fully participating in global markets. Landlocked developing countries were also dependent on their transit neighbours for their trade and connectivity. The structural vulnerabilities and limited productive capacities of such countries further limited their development efforts. High transport costs eroded the competitive edge of those countries and constituted the greatest impediment to increasing trade volumes and reaching equitable access to global markets.

31. Efficient transport infrastructure and transit corridors were crucial for improving the connectivity of landlocked developing countries, stimulating regional integration, facilitating trade, driving effective integration into the global economy and developing global and regional supply chains. The Asian Highway network, Trans-African Highway network and Trans-Asian railway network provided for connectivity in the regions concerned. However, they were characterized by low-quality infrastructure and missing links. It was important to fill the missing links along transport corridors in the regions with landlocked developing countries, in order to improve their connectivity and with a view to closing the existing infrastructure gaps. This required all sources of financing.

32. Improvements in soft infrastructure and trade facilitation were equally important to stimulate faster and more efficient trade for landlocked developing countries and the smooth functioning of transit corridors. The implementation of the specific actions of the Vienna Programme of Action for Landlocked Developing Countries for the Decade 2014-2024 would, among other things, facilitate the establishment of efficient transit transport systems, increase regional integration and help integrate landlocked developing countries into the global trading system. The Vienna Programme of Action provided a number of important recommendations and a basis for action with regard to the need of landlocked developing countries to develop efficient and sustainable transport infrastructure, promote industrialization and diversification, structurally transform their economies and build capacities.

33. WFP recognized the important role of environmentally sound, safe, efficient, reliable and affordable transport and transit corridors in supporting sustainable economic growth and improving the social welfare of the people. Transport and transit corridors, particularly in fragile States and following emergencies, helped support or restore food security and nutrition, establish or rebuild livelihoods, reduce risk and enable people, communities and countries to meet their own food and nutrition needs.

34. In line with its mandate to eradicate hunger and poverty, and implemented through special operations activities, WFP was engaging in the construction of transport and transit corridors to speed up the movement of food assistance, whether or not the food was provided by WFP. Typically, such operations involved logistics and infrastructure work and were designed to overcome operational bottlenecks. Special operations were short-term in nature and usually complemented emergency operations or longer rehabilitation projects.

35. The feeder roads special operation in South Sudan, launched in March 2011 to support the WFP South Sudan emergency operation, was an example of how the work of WFP on transport and transit corridors contributed to the fight against hunger and supported sustainable economic growth. The main goal of the feeder roads special operation was to create farm-to-market access by rehabilitating rural roads in areas with an agricultural potential. The benefits of these road construction projects included: (a) increased agricultural production, enhanced by improved access to markets for agricultural produce and inputs; (b) employment generation for local community members, where possible targeted at women; (c) improved access to education, health and administrative centres and generally facilitated implementation of development projects; (d) improved access to vulnerable communities for WFP and other humanitarian actors; (e) Training and support of national contractors to increase private sector capacity to undertake future rehabilitation and maintenance works; (f) strengthened capacity of national and state government staff. Sustainability and capacity development were important considerations for the design and implementation of the feeder roads operation, as a road was only sustainable if it could be maintained locally.

36. WHO noted the reference in General Assembly resolution 69/213 to recent United Nations General Assembly road safety resolutions,[3] the Decade of Action for Road Safety 2011-2020 and the forthcoming second Global High-level Conference on Road Safety, to be held on 18 and 19 November 2015 in Brazil.

37. The global magnitude of road traffic fatalities had not shown a significant decline in the last 10 years. Currently, road traffic crashes were the ninth leading cause of death globally, and were projected to become the seventh leading cause of death by 2030. Road traffic crashes were the leading cause of death for young people aged 15-29 years. Globally, WHO estimated that 1.24 million people died owing to road traffic crashes in 2010. According to the World Bank, road traffic crashes were estimated to cost more than US$1800 billion, or 3 per cent of gross domestic product (GDP), globally, with the economic losses in low- and middle-income countries equivalent to 5 per cent of GDP, or US$1000 billion per year.

38. There were proven interventions that could be implemented in transport and transit corridors, which would help to reduce the global magnitude and impact of road traffic injuries. These included controlling speed, reducing drinking and driving, and enhancing road infrastructure. While transport and transit corridors were necessary as they played an important role in the movement of people and goods, one of the main challenges was that these corridors tended to be developed with little consideration for the safety, accessibility and development of the many local communities and settlements they passed through. High-speed inter-urban roads often passed through villages, towns and cities without adequate traffic calming measures. Inadequate foresight and safety planning could increase the risks for people who lived in settlements along those corridors.

[3] Resolutions 57/309, 58/9, 58/289, 60/5, 62/244, 64/255, 66/260 and 68/269.

Report of the Special Rapporteur on the independence of judges and lawyers, Ms. Gabriela Knaul

Summary

The present report is the last submitted by Ms. Gabriela Knaul before her successor takes up her functions. Therefore, she has decided to seize the opportunity to look back at the work accomplished during her six years as a mandate holder.

After presenting her recent activities, the Special Rapporteur considers the country visits undertaken, the communications sent and media releases issued, as well as the other activities carried out throughout her tenure.

She then reviews and analyses the many issues she addressed in her annual thematic reports. The review is organized into seven thematic clusters: education, training and capacity-building of judges, lawyers and prosecutors; access to justice and legal aid; challenges to the independence and impartiality of judges; protecting the independence of lawyers; safeguarding the independence and impartiality of prosecutors and the autonomy of prosecution services; equality before the courts and fair trial guarantees; and impunity for human rights violations. The thematic clusters allow the Special Rapporteur to show the interconnectedness of the themes she has addressed during the past six years and their relevance to the mandate in different contexts and from different perspectives.

She hopes that the comprehensive overview of the work and activities undertaken contained in the present report will prove useful for the future endeavours of her successor, as well as bring to the attention of Member States and other stakeholders the diverse and numerous issues related to the independence of judges, lawyers and prosecutors, and a proper and fair administration of justice.

The Special Rapporteur stresses that, in the light of what she has witnessed during her mandate, the Basic Principles on the Independence of the Judiciary, the Basic Principles on the Role of Lawyers and the Guidelines on the Role of Prosecutors, together with the Bangalore Principles on Judicial Conduct and relevant conventional provisions, in particular the International Covenant on Civil and Political rights, remain absolutely essential to the promotion and protection of the independence of judges, lawyers and prosecutors throughout the world.

Looking towards the future, the Special Rapporteur pleads for renewed attention to and promotion of existing international laws, standards, principles and guidelines on judicial independence and impartiality and the independence of the legal profession. The most fundamental rights of judges, lawyers and prosecutors are still blatantly violated on a daily basis across the world, and that should deserve the full attention of Member States.

I. Introduction

1. The present report is the last submitted to the General Assembly by Ms. Gabriela Knaul in accordance with Human Rights Council resolution 26/7. Her successor, Ms. Mónica Pinto, takes up her functions as Special Rapporteur on the independence of judges and lawyers on 1 August 2015. She wishes Ms. Pinto success in all her endeavours.

2. The Special Rapporteur decided to seize the opportunity to look back at the work accomplished during her six years as a mandate holder. She hopes that the comprehensive overview of the work and activities undertaken contained in the present report will prove useful for the future endeavours of her successor, as well as bring to the attention of Member States and other stakeholders the diverse and numerous issues related to the independence of judges, lawyers and prosecutors, and a proper and fair administration of justice.

3. In section II, the Special Rapporteur first presents her recent activities. She then considers the country visits undertaken, the communications sent and media releases issued, as well as the other activities carried out throughout her tenure. In section III, she reviews and analyses the many issues she addressed in her annual thematic reports. The review is organized into seven thematic clusters: education, training and capacity-building of judges, lawyers and prosecutors; access to justice and legal aid; challenges to the independence and impartiality of judges; protecting the independence of lawyers; safeguarding the independence and impartiality of prosecutors and the autonomy of prosecution services; equality before the courts and fair trial guarantees; and impunity for human rights violations. The use of thematic clusters allows the Special Rapporteur to show the interconnectedness of the themes she has addressed and their relevance in different contexts.

II. Six years of activities of the Special Rapporteur on the independence of judges and lawyers

A. Recent activities

4. The activities carried out by the Special Rapporteur from the issuance of her previous report to the General Assembly to 28 February 2015 are listed in her most recent report to the Human Rights Council (A/HRC/29/26 and Corr.1). From 1 March to 31 July 2015, she participated in the activities set out below.

5. On 17 June 2015, the Special Rapporteur participated as a panellist in a side event to the twenty-ninth session of the Human Rights Council entitled "Securing the independence and effectiveness of the judiciary: European initiatives and perspectives in a global context", organized by the Permanent Delegation of the Council of Europe to the United Nations Office and other international organizations in Geneva. In her statement, she reviewed her six years as a mandate holder and addressed the role played by European standards and jurisprudence regarding the independence of the judiciary in a global context.

6. On 18 June, the Special Rapporteur presented her last annual thematic report to the Human Rights Council, which addressed the protection of children's rights in the justice system (A/HRC/29/26 and Corr.1). She also presented the

reports on her official visits to Qatar (A/HRC/29/26/Add.1), the United Arab Emirates (A/HRC/29/26/Add.2), Tunisia (A/HRC/29/26/Add.3) and Portugal (A/HRC/29/26/Add.4).

7. In her statement before the Human Rights Council, the Special Rapporteur reiterated her serious concerns about acts of reprisals against individuals and groups who cooperate or seek to cooperate with the United Nations human rights mechanisms, including those who cooperate and meet with Special Rapporteurs during official country visits and those, in particular judges, who implement the decisions of human rights mechanisms.

8. Also on 18 June, the Special Rapporteur participated in a side event on reprisals against the judiciary in Ukraine organized by the International Association of Democratic Lawyers. In her presentation, the Special Rapporteur focused on the centrality of the independence of judges and lawyers to combating impunity, strengthening respect for the rule of law and consolidating democracy.

9. On 19 June, the Special Rapporteur presented the findings and recommendations of her country visit to the United Arab Emirates at a side event to the Human Rights Council entitled "Human rights and challenges facing legal and judicial systems in the United Arab Emirates" and organized by the International Center for Justice and Human Rights.

B. Country visits

10. During her six-year mandate, from 1 August 2009 to 31 July 2015, the Special Rapporteur was able to carry out 14 official country visits to all five regional groups. The countries visited were:

1. Colombia, 2009 (A/HRC/14/26/Add.2);
2. Mexico, 2010 (A/HRC/17/30/Add.3);
3. Mozambique, 2010 (A/HRC/17/30/Add.2);
4. Bulgaria, 2011 (A/HRC/20/19/Add.2);
5. Romania, 2011 (A/HRC/20/19/Add.1);
6. Turkey, 2011 (A/HRC/20/19/Add.3);
7. Pakistan, 2012 (A/HRC/23/43/Add.2);
8. El Salvador, 2012 (A/HRC/23/43/Add.1);
9. Maldives, 2013 (A/HRC/23/43/Add.3);
10. Russian Federation, 2013 (A/HRC/26/32/Add.1);
11. Qatar, 2014 (A/HRC/29/26/Add.1);
12. United Arab Emirates, 2014 (A/HRC/29/26/Add.2);
13. Tunisia, 2014 (A/HRC/29/26/Add.3);
14. Portugal, 2015 (A/HRC/29/26/Add.4).

11. The Special Rapporteur wishes to reiterate her gratitude to the respective governments for their invitations and cooperation. She hopes that her

recommendations have been seriously considered and appropriate measures taken to implement them. She also hopes that her successor will be in a position to follow up on the implementation of those recommendations as well as look into any new developments concerning the independence of the justice system and the legal profession in those countries.

12. Finally, the Special Rapporteur wishes to note that respecting a regional balance with regard to her country visits has not been an easy task. Indeed, too many States still refuse to accept country visits by special procedures mandate holders or merely ignore the requests for invitation they receive. For that reason, she wishes to once again call upon States to seriously consider responding positively to requests for country visits. In that context, she would like to reiterate her gratitude to the Governments of France, Germany, Greece, Iraq, Kenya, Morocco, Nepal, Spain and the United States of America for inviting her to conduct official visits and regrets that she was unable to carry out such visits before the end of her mandate.

C. Communications and media releases

13. During the past six years, the Special Rapporteur sent a total of 581 communications to 103 Member States from all regional groups, and to 3 other entities, in the form of urgent appeals (432 or 74.4 per cent) and allegation letters (149 or 25.6 per cent). The communications addressed a variety of issues related to the situation of individual judges, lawyers and prosecutors; the structure and functioning of the judiciary and the administration of justice; access to justice; and the right to due process of law and a fair trial.

14. A large majority of the communications (88.1 per cent) were sent jointly with other special procedures (93.5 per cent of urgent appeals and 72.5 per cent of allegation letters were sent jointly). That reflects the reality that situations affecting judges, lawyers and prosecutors, the functioning of the justice system and the right to a fair trial very often occur in contexts in which other democratic institutions are also at risk or in which a variety of human rights are being violated, such as the right not to be subjected to arbitrary arrest or detention, the right not to be subjected to torture and ill-treatment, the right to freedom of opinion and expression, the right not to be subjected to discrimination or the rights to freedom of peaceful assembly and association.

15. The Special Rapporteur wishes to emphasize that the communications exclusively reflected information that was transmitted to her and subsequently acted upon. Complaints that contained insufficient information or fell outside the scope of the mandate, or instances in which the Special Rapporteur was not in a position to act owing to time, workload or other constraints, are not reflected in the numbers. Problems concerning the independence and impartiality of the justice system are also not limited to the States or entities to which communications were sent. Therefore, the fact that a particular State or entity may not have received a communication should not be interpreted as indicating that there are no challenges concerning the independence and impartiality of the judiciary and the administration of justice in that State or entity.

16. The Special Rapporteur received replies to approximately 41 per cent of her communications. In her opinion, that percentage is still too low. She remains concerned that some replies merely acknowledged receipt of the communication or

rejected the content of the communication without providing any substantive explanations. Some replies were also received after a considerable delay. For that reason, she wishes to encourage States to reply to communications sent by the mandate holder within reasonable deadlines and address the specific violations and concerns identified therein in a meaningful way, in particular when the communications concern time-sensitive issues that may have irreversible consequences for the individuals who are the subject of the appeals.

17. During her six-year mandate, the Special Rapporteur also increasingly used media releases to bring public attention to situations she identified as being particularly concerning, as well as to give visibility to issues addressed in her thematic reports. Excluding press releases and public statements related to country visits, she issued a total of 66 media releases; 51 of those addressed specific country situations across regional groups, 8 focused on particular themes related to the mandate and 7 disseminated the findings and recommendations of her thematic reports. As in the case of communications, a majority of media releases (46 or 69.7 per cent) were sent jointly with other special procedures.

D. Other activities

18. During the past six years, the Special Rapporteur has participated in a large number of events and conferences relevant to her mandate and organized by different stakeholders, including non-governmental organizations, professional associations and United Nations entities and agencies. Those events provided a valuable opportunity for the Special Rapporteur not only to present the mandate and its procedures, but also to gather specific information and receive feedback and suggestions on issues related to the mandate and its discharge. The conferences and other events attended are detailed in the relevant sections of the Special Rapporteur's annual thematic reports.

19. In addition, on 28 and 29 November 2012, the Special Rapporteur organized a regional consultation on the judiciary in Central America in Panama City and presented a report thereon to the Human Rights Council (A/HRC/23/43/Add.4). The consultation was attended by experts in the judicial service, academics, representatives of civil society, representatives from the Inter-American Commission on Human Rights and the regional office for Central America of the Office of the United Nations High Commissioner for Human Rights and government representatives from the seven countries of the region.

III. Review and assessment of the main issues addressed during six years of the mandate

20. Over the course of six years, the Special Rapporteur authored and presented 11 annual thematic reports to the Human Rights Council and the General Assembly, excluding the present report, addressing a variety of issues of relevance to her mandate:

1. Continuing education on human rights as a guarantee for the independence of judges and lawyers, 2010 (A/HRC/14/26);

2. The role of the criminal justice system in combating impunity, 2010 (A/65/274);

3. Gender and the administration of justice, 2011 (A/HRC/17/30 and Corr.1);

4. Gender in the criminal justice system: the role of judges and lawyers, 2011 (A/66/289);

5. The independence and impartiality of prosecutors and prosecution services, 2012 (A/HRC/20/19);

6. Judicial corruption and combating corruption through the justice system, 2012 (A/67/305);

7. Legal aid, 2013 (A/HRC/23/43 and Corr.1);

8. Military tribunals, 2013 (A/68/285);

9. Judicial accountability and State responsibility and the right to a remedy, 2014 (A/HRC/26/32);

10. Justice and the post-2015 development agenda, 2014 (A/69/294);

11. Protecting children's rights in the justice system, 2015 (A/HRC/29/26 and Corr.1).

21. In addition, the Special Rapporteur presented an advance report on her global thematic study on human rights education and training of legal professionals to the twentieth session of the Human Rights Council in 2012 as requested in Human Rights Council resolution 15/3 (A/HRC/20/20). The study analysed the replies received from 70 States and other entities to a questionnaire circulated by the Special Rapporteur which focused on the structural elements of existing human rights courses and training initiatives, as well as other relevant information from diverse institutions and non-governmental organizations.

22. In the following sections, the Special Rapporteur reviews and assesses the main issues she addressed in her annual thematic reports. Her considerations are organized into seven thematic clusters reflecting the priorities she had set for her tenure.

A. Education, training and capacity-building of judges, lawyers and prosecutors

23. The Special Rapporteur devoted her first annual thematic report (A/HRC/14/26) to the need for education and continuing training (also often referred to as on-the-job education or training) in international human rights law for judges, prosecutors and lawyers. She demonstrated that effective and ongoing capacity-building of all actors of the justice system, in particular judges, prosecutors and lawyers, plays a decisive role in their independence, impartiality and competence.

24. Within their respective functions, lawyers, prosecutors and especially judges have an obligation and responsibility to uphold international human rights law. For that reason, they must be aware of and trained to use human rights law, principles and jurisprudence, as well as receive education regarding the obligations thereof. Appropriate human rights education and training is therefore essential in order to

enable judges, prosecutors and lawyers to apply international human rights law, principles and jurisprudence in the consideration of domestic cases.

25. At the pre-service level, particular attention must be placed on the curricula of law schools or faculties to ensure that they include the study of international human rights law and international criminal law. Subsequently, adequate education and training opportunities must be available both upon initial appointment to office and throughout the career in the form of continuing training and capacity-building, and should include mandatory courses on international human rights law, jurisprudence and the related international obligations of States. The Special Rapporteur highlighted the central role played by national training institutions in providing for such opportunities. With regard to lawyers, she noted that initial and continuing training should ideally be offered by institutions placed under the aegis of bar associations.

26. Starting with her country visit to Mozambique in 2010, the Special Rapporteur has systematically dedicated a section of her country visit reports to the education, training and capacity-building of judges, lawyers and prosecutors. In that section, she looks at both positive achievements in that sector, including the existence of national training institutions, and pressing concerns, including the lack of continuing training opportunities, the lack of financial and other resources to support sustainable educational and training programmes, the lack or scarcity of specific training on human rights and the poor quality of available education and training.

27. The Special Rapporteur continued to address the importance of quality human rights education and training as a recurring theme in several subsequent annual reports. In her report of 2012 to the Human Rights Council (A/HRC/20/19), she looked in more detail at the specific education and training requirements necessary to ensure the competence and impartiality of prosecutors. She has also underlined the centrality of adequate human rights education and training to foster the capacity of judges, prosecutors and lawyers to combat impunity and ensure accountability for human rights violations (see A/65/274, para. 48).

28. The Special Rapporteur has also emphasized that inadequate education and training, including a lack of training on corruption, anti-corruption measures and judicial integrity, can contribute to the corruptibility of the judiciary (see A/67/305, in particular paras. 67 and 69). Education and training can contribute to significantly changing attitudes that otherwise would be lenient or even favourable to corrupt conduct, and therefore pave the way for strengthening the integrity of the judiciary. For those reasons, she recommended that all actors of the justice system, especially judges, prosecutors and lawyers, be properly educated and trained with regard to their respective codes of ethics or conduct, national and international legislation on corruption, international standards relating to the proper discharge of their functions and international human rights law.

29. In her report of 2013 to the Human Rights Council, the Special Rapporteur underlined that the quality of legal aid depends first and foremost on the qualifications and training of legal aid providers, who include lawyers and paralegals. She recommended that national legislation on legal aid ensure that professionals working for the legal aid system possess the qualifications and training appropriate for the services they provide (see A/HRC/23/43, para. 56).

30. The Special Rapporteur has also demonstrated the necessity of quality education and proper training to enable judges, prosecutors and lawyers to discharge their functions in a manner that ensures equality of treatment of all before the courts, in particular for women (see A/HRC/17/30 and Corr.1 and A/66/289). An impartial justice system requires that judges do not allow their judgement to be influenced by personal bias or prejudice, nor harbour preconceptions about the particular case before them. Prosecutors too must not be influenced by prejudices or stereotypes in the discharge of their professional functions.

31. In that context, the Special Rapporteur highlighted that changing attitudes and eliminating stereotypes and prejudices, including those based on gender, requires institutionalized and sustained efforts in the form of training programmes, continuing education and capacity-building in international human rights law, jurisprudence and related obligations, as well as national laws against discrimination which too often remain unknown or are not applied (see A/66/289, para. 35).

32. Most recently, the Special Rapporteur emphasized that appropriate education, training and capacity-building are fundamental to ensuring that those who come into contact with children in the justice system, especially judges, prosecutors and lawyers, respect, protect and fulfil children's rights. Understanding children's development is fundamental to understanding their behaviour and their capacity to participate in legal proceedings, including their ability to interact and communicate with those who assist them, comprehend what is at stake and make informed choices about their situation. Building a child-friendly justice system therefore requires institutionalized and sustained efforts in the form of specialized training programmes, continuing education and capacity-building that focus on relevant international human rights norms and standards, fundamental principles and related State obligations (see A/HRC/29/26, paras. 86, 88 and 89).

33. The Special Rapporteur hopes that her successor will continue to advocate for the study of international human rights law to be included in the curricula of all law faculties, schools for the judiciary and academic programmes of bar associations, and for institutional training on international and regional human rights law, principles and jurisprudence, and the obligations thereof, to be established and made compulsory for all judges, prosecutors and lawyers.

B. Access to justice and legal aid

34. Following in the footsteps of her predecessor, the Special Rapporteur has devoted extensive attention to concerns relating to access to justice, and legal aid in particular, and considers those themes to be central aspects of the mandate. Throughout the Special Rapporteur's tenure, issues related to access to justice have featured prominently in both her annual thematic reports and country visit reports.

35. Access to justice was one of the fundamental issues addressed in the report of the Special Rapporteur to the sixty-ninth session of the General Assembly (A/69/294), where she demonstrated the need to integrate the concept of the rule of law, including the central element of access to justice, into the post-2015 development agenda.

36. The Special Rapporteur has determined that access to justice operates as a right in itself and as a requirement for the fulfilment of other rights. She emphasized the United Nations Development Programme's definition of access to justice, according to which access to justice is the ability of people to seek and obtain a remedy through formal or informal institutions of justice, and in conformity with human rights standards (see A/69/294, para. 47). The Special Rapporteur has gone on to stress that access to justice should be conceived in the broadest sense possible and entails the existence of a well-functioning judiciary and the ability of individuals to obtain an appropriate remedy in a reasonable time frame.

37. The Special Rapporteur has also stressed that access to justice is not merely access to the judiciary in a given State, but also includes the means to access less formal mechanisms that are able to assist people to claim and enforce their rights, including ombudsmen offices, conciliators, mediators and human rights institutions.

38. Access to justice is a legally complex issue because it constitutes the means for realizing and restoring rights, but it is also a fundamental human right in itself. The Special Rapporteur has explained that access to justice is a central component of many specific rights pertinent to the mandate for the independence of judges and lawyers, including the right to equality before the courts, the right to an effective remedy, the right to liberty and the right to effective judicial protection (see A/HRC/17/30, para. 37). She has also highlighted barriers to access to justice that must be removed for the full realization of that right, including financial barriers, barriers relating to information, social or cultural barriers, physical barriers and legal and normative barriers.

39. The Special Rapporteur has also focused on legal aid as an essential component of access to justice, and devoted her report of 2013 to the Human Rights Council to the question (A/HRC/23/43 and Corr.1). In that context, she has urged States to develop and implement effective legal aid schemes in order to enable citizens to fully enjoy their human rights. Indeed, as a component of the right to access justice, legal aid is both a right in itself and a procedural guarantee for the exercise and enjoyment of other rights.

40. Although the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems focus only on the provision of legal aid in the criminal justice system, the Special Rapporteur considers that they contain the most comprehensive legal instrument to date for developing and strengthening legal aid systems at the national level. The Principles and Guidelines have construed the term "legal aid" to include legal advice, assistance and representation for victims and for arrested, prosecuted and detained persons in the criminal justice process, provided free of charge for those without means. Furthermore, legal aid includes legal education, access to legal information and other services provided for persons through alternative dispute mechanisms (see A/HRC/23/43, para. 8).

41. Moreover, the Special Rapporteur strongly advocates for legal aid services to be available to all individuals engaged with the justice system, including criminal and non-criminal proceedings. The Special Rapporteur has consistently reminded States that, under international law, States bear the primary responsibility to adopt all appropriate legislative, judicial, administrative, budgetary, educative and other measures towards the full realization of the right to legal aid for all individuals, regardless of nationality, gender, age or other status.

42. The Special Rapporteur considers that the aim of legal aid is to contribute to the elimination of obstacles that impair or restrict access to justice by providing assistance to people otherwise unable to afford legal counsel, representation and access to the court system. For that reason, she strongly believes that the definition of legal aid should be as broad as possible and include the provision of effective legal assistance not only at all stages of the criminal justice process, but also at the pretrial stage and in any non-criminal judicial or extrajudicial procedures aimed at determining rights and obligations.

43. During her mandate, the Special Rapporteur has devoted particular attention to issues related to gender and women's rights. In that context, she has addressed specific issues related to women's access to justice and legal aid. In her report of 2011 to the Human Rights Council (A/HRC17/30 and Corr.1), she addressed improving women's access to justice by addressing the feminization of poverty and developing a gender-sensitive judiciary. In her report to the General Assembly of the same year (A/66/289), she advocated for a gender-representative and gender-sensitive judiciary. Finally, the Special Rapporteur addressed issues related to the provision of legal aid for women in her report dedicated to the topic (A/HRC/23/43 and Corr.1).

44. More specifically, the Special Rapporteur has identified many challenges affecting women's access to justice, including laws and practices that discriminate against women, policies that disregard the goal of gender equality and the feminization of poverty (see A/HRC/17/30, para. 29). Despite widespread ratification of the Convention on the Elimination of All Forms of Discrimination against Women, major gender-specific obstacles remain that effectively block women's access to the justice system. In order to overcome those obstacles, the Special Rapporteur has urged States to develop a gender-sensitive justice system by adopting programmes that address gaps in women's protection in social policies and adopt legal aid policies aimed at assisting women throughout their engagement with the legal system.

45. Finally, the Special Rapporteur focused her last thematic report to the Human Rights Council on the issue of protecting children in the justice system (A/HRC/29/26 and Corr.1). Central to that report was the importance of access to justice and legal aid for children. In that context, she has stressed that equal access to justice means States must adopt special measures to ensure meaningful access by children to the legal system, both formal and informal.

46. In her report, the Special Rapporteur noted in particular that child-friendly legal aid is inextricably connected to the right to legal assistance and access to justice and therefore must also be guaranteed by States. Looking at the role of lawyers in the administration of child-friendly judicial procedures, she explained that lawyers have an essential part to play in facilitating children's access to the justice system because child-friendly legal aid has the potential to promote and protect children's substantive rights (see A/HRC/29/26, para. 38).

47. Throughout her mandate and in a variety of contexts, the Special Rapporteur has relentlessly stressed the importance of access to justice and legal aid, as they are both a human right in themselves and a means to enforce and realize other human rights. That is illustrated by the fact that all of her country visit reports include a section addressing her concerns on access to justice and legal aid in the respective States and proposing specific measures to improve that access.

C. Challenges to the independence and impartiality of judges

48. The parameters to effectively guarantee the independence of judges, both in their individual and institutional aspects, had been analysed in detail in a report by the Special Rapporteur's predecessor (A/HRC/11/41). Identified in that report as essential institutional parameters were the separation of the judicial function from other branches of the State; the guarantee of independence at the constitutional level; the selection and appointment process; the guarantee of the "lawful" judge; judicial budget; freedom of association and expression; the assignment of court cases; independence within the judiciary; and the investigation into allegations of improper interference. The elements highlighted as central to the individual status of judges were tenure and irremovability, immunity, promotion and conditions of service, including judicial salary, human and material resources and security and training.

49. Over the course of her tenure, the Special Rapporteur has endeavoured to pay systematic attention to those safeguards for judicial independence, in particular during her country visits. She has also further elaborated on the content of some of the parameters in various thematic reports.

50. For instance, the Special Rapporteur analysed the role played by judges to ensure accountability for human rights violations in the national criminal justice system (see A/65/274), or to protect the rights of children who come into contact with the law (see A/HRC/29/26 and Corr.1). In her report to the General Assembly in 2013 (A/68/285), she addressed the specific issues and concerns related to the independence and impartiality of judges sitting on military courts. In the context of her report on prosecutors (A/HRC/20/19), she addressed the importance of the clear separation of their functions from those of judges.

51. In the report she devoted to judicial corruption (A/67/305), the Special Rapporteur looked into the specific parameters necessary to safeguard judges from conditions conducive to corruption and strengthen their capacity to counter and combat all manifestations of judicial corruption. She noted that a judiciary whose independence is not firmly institutionalized and adequately protected can easily be corrupted or co-opted by interests other than those of applying the law in a fair and impartial manner. She also addressed the issue of judicial integrity and the tension existing between the requirement for independence and the necessity of holding judges accountable.

52. The Special Rapporteur looked at the issue of judicial accountability in more detail in her report of 2014 to the Human Rights Council (A/HRC/26/32). She noted that judicial independence and judicial accountability are both essential elements of an independent, impartial, efficient and transparent justice system. Judicial accountability must nevertheless never be used to arbitrarily undermine the independence of judges, and, for that reason, any accountability procedures must be in line with international standards of due process and fair trial.

53. In addition, the Special Rapporteur has paid particular attention to the representation of women on the bench (see A/HRC/17/30 and Corr.1 and A/66/289). Women historically have been excluded from judicial office and are still largely underrepresented, particularly in the highest positions. Yet, since the primary function of the judiciary is to promote equality and fairness, the composition of courts must reflect the diversity of the pluralistic society and communities they

serve, so as to preserve and improve public trust and confidence in its credibility, legitimacy and impartiality (see A/66/289, paras. 23 and 26).

54. A diverse judiciary will ensure a more balanced and impartial perspective on matters before the courts, eliminating barriers that have prevented some judges from addressing certain issues fairly. Women sitting on panels of judges also have the potential ability to gain their male colleagues' support for issues relating to gender discrimination. That reasoning is equally applicable to the matter of encouraging the representation of underrepresented groups, such as ethnic, racial or sexual minorities, among others. The strongest impact of women's participation as members of the judiciary is perhaps exerted through the role they have played, and continue to play, in shaping and interpreting both national and international law relating to gender-based violence, including rape and other forms of sexual violence (see A/66/289, paras. 27, 31 and 32).

55. The Special Rapporteur has relentlessly advocated, in particular during her country visits, for States to provide to women the same rights and opportunities to join the legal profession and become judges, and to take urgent measures to address gender-based discrimination in the judiciary. She has also pointed to the need to guarantee promotion opportunities for women judges so that they can continue developing their careers and ascend to the higher courts.

56. The Special Rapporteur remains concerned that, as observed in many country reports and communications, many of the fundamental guarantees of judicial independence are still being violated throughout the world on a daily basis. She is particularly concerned about serious interference in the separation of powers and the independence of judges, including executive and/or legislative interference in the selection and appointment of judges or the work of judicial councils, and the inappropriate use of disciplinary and criminal proceedings against judges.

D. Protecting the independence of lawyers

57. The Special Rapporteur has persistently recalled the essential role that lawyers play in a democratic society based on the rule of law, the separation of powers and the independence of the judiciary. The independence of lawyers and their ability to exercise their functions effectively and in compliance with the ethics of their profession directly contributes to upholding human rights, and in particular due process of law and fair trial guarantees. During her mandate, the Special Rapporteur has striven to build upon the prerequisites and safeguards, identified in the last report of her predecessor (A/64/181), that are essential for lawyers to freely and effectively discharge their professional functions.

58. Those prerequisites and safeguards include domestic legislation regulating the role and activities of lawyers and the legal profession in line with international standards, norms and guidelines on the matter; objective and transparent processes of admission to the bar; the organization of the legal profession into independent bar associations; ethical rules and disciplinary measures in line with international standards on the matter; quality legal education and adequate opportunities for training; respect for the confidential nature of the lawyer-client relations; the need to have access to relevant information; safeguards from unlawful interference in the work of lawyers and for their security; and respect of lawyers' rights to freedom of opinion, expression and assembly (see A/64/181).

59. Wherever relevant, the Special Rapporteur has addressed the fundamental role that lawyers play, the specific safeguards that need to be in place to protect them and their independence and their duties, including with regard to upholding international human rights law. For instance, she reaffirmed the importance of setting up guarantees to enable lawyers to discharge their duties in an independent manner, protected from pressure and interference from public or private actors in the context of judicial corruption (see A/67/305). She discussed the role of lawyers and bar associations with regard to the provision of legal aid (see A/HRC/23/43 and Corr.1). In her report on judicial accountability (A/HRC/26/32), she also briefly addressed the need for fair and transparent mechanisms to hold lawyers accountable with regards to their professional ethics and codes of conduct.

60. In her most recent report to the Human Rights Council, the Special Rapporteur emphasized that lawyers have a professional responsibility towards children and should therefore acquire the special skills to be able to take into account the unique attributes and needs of child clients in order to effectively deliver child-friendly legal aid. For that reason, she underlined that lawyers representing children should be appropriately trained and that their codes of conduct should provide specific guidance regarding the representation of children, including concerning the nature of the relationship between the lawyer and child and the possible conflict between the duty of representation and the duty to act in the child's best interests (see A/HRC/29/26, paras. 38 and 40).

61. The Special Rapporteur has also consistently scrutinized the specific situation of lawyers during her country visits. The majority of her country visit reports contain a section focusing on lawyers and the respective concerns identified by the Special Rapporteur, as well as recommendations specific to lawyers and the legal profession. She has constantly emphasized that, while lawyers are not expected to be impartial in the same way that judges are, they must be as free from external pressures and interferences as judges are. In many country reports, she has highlighted the importance of an independent and self-regulating bar association or council that oversees the process of admitting candidates to the bar, provides for a uniform code of ethics and conduct and enforces disciplinary measures, including disbarment. Bar associations not only provide an institutional protection for its members against undue interference in their work, but also monitor and report on their members' conduct, ensuring their accountability and applying disciplinary measures in a fair and consistent manner.

62. The Special Rapporteur remains concerned about the general situation of lawyers around the world, as throughout her six-year tenure she has recorded an enormous number of allegations of attacks, harassment, intimidation, criminal prosecution and killings of lawyers; restrictions on their freedom of opinion and expression; arbitrary disbarments; and instances of attempts at limiting the independence of lawyers by way of legislative projects and amendments. Very often impunity prevails for such attacks, generating a chilling effect that negatively affects the environment in which lawyers work. She hopes that her successor will commit to looking into the situation of lawyers in more detail and bring renewed attention to the plight of the many lawyers who risk everything they have, even their lives, to defend the rights of their clients.

E. Safeguarding the independence and impartiality of prosecutors and the autonomy of prosecution services

63. As requested by Human Rights Council resolution 15/3, the Special Rapporteur addressed the independence and impartiality of prosecutors and prosecutions services in her report of 2012 to the Human Rights Council (A/HRC/20/19). The Special Rapporteur has also looked at the functioning of prosecutorial services and the need to safeguard the independence and impartiality of prosecutors during all her country visits, sometimes pointing to serious structural or situational concerns.

64. Prosecution services should be autonomous and prosecutors should perform their functions in an independent, objective and impartial manner, in compliance with the law and international legal principles, including the fundamental principle of the presumption of innocence. In particular, it is important that the prosecution service in any given State is autonomous from judicial functions, which is outlined in the Guidelines on the Role of Prosecutors, in particular principles 10 and 12. Even prior to the issuance of her thematic report, the Special Rapporteur sought to reiterate the importance of the autonomy of judicial and prosecutorial functions during her country visits.

65. The independence and impartiality of prosecutors must be safeguarded, including by an appropriate process of appointment and promotion based on objective criteria. Prosecutors should be appointed in a way that maximizes their autonomy from the executive functions of the State and allows them to act with the independence and impartiality necessary to the fair administration of justice. The lack of autonomy can erode the prosecutor's credibility for investigating crimes objectively and thereby undermine the public's confidence.

66. The security of tenure for prosecutors is a particularly important aspect of the working conditions of prosecutors that reinforces independence and impartiality. The Special Rapporteur has observed that, in certain countries, unwarranted transfers of prosecutors between locations results in unjustifiable interference in their independence. Threats to transfer prosecutors to other posts are often used as a means to exercise undue pressure on them. Further, the Special Rapporteur has expressed particular concern at "transfer systems", which can be used as a punishment or reward mechanism depending upon the perceived allegiance of an individual prosecutor.

67. In order to safeguard prosecutors, their removal from office or dismissal should be closely monitored and subject to strict requirements that do not undermine their autonomy or impartiality. For internal disciplinary matters and complaints against prosecutors, there should be a framework in place to avoid arbitrary interference. Prosecutors must also be able to challenge all decisions concerning their career, including legal challenges and those decisions resulting from disciplinary proceedings.

68. The remuneration and conditions of service of prosecutors affect their ability to discharge their duties. The Special Rapporteur has noted that appropriate remuneration of prosecutors implies recognition of their important function and can reduce the risk of corruption in the criminal justice system and among prosecutors.

69. In the discharge of their duties, prosecutors have a discretionary power in deciding which cases are brought to trial. However, the Special Rapporteur has stressed the necessity of clear guidelines to ensure that such discretion is exercised appropriately. Guidelines are necessary in order to develop an understanding among prosecutors that their discretionary power is not absolute and that, when deciding on the prioritization of cases, reasonable justification must always be provided for why a given case has been pursued or discontinued. The guidelines function as a safeguard because they act to prevent unfairness and arbitrariness from entering the decision-making process. Abuses of prosecutorial discretionary powers must be diligently and appropriately investigated and sanctioned.

70. Prosecutors are also often directly exposed to security risks, particularly when dealing with sensitive cases, such as those related to organized crime or terrorism. Prosecutors who fear for their personal security or that of their families cannot remain independent and impartial in the performance of their duties. It is therefore essential that the State take steps towards ensuring the full protection of prosecutors and their families.

71. The work of prosecutors is greatly affected when impunity is prevalent. Prosecutors must be in a position to bring cases against anyone without fear for their personal security. Only through bringing all relevant cases to trial can prosecutors discharge their professional duties properly, tackle impunity and contribute to the protection and promotion of human rights.

72. The Special Rapporteur has also observed that prosecutors must ensure that only appropriate evidence is used when a case is brought to trial. In particular, prosecutors must not use evidence that has been obtained through illegal means, such as torture. In order to avoid that and to ensure that evidence comes from legitimate and legal sources, the Special Rapporteur has insisted that positive working relationships must be fostered between prosecutors and investigators. Prosecutors must also ensure that the evidence gathered will be sufficient to sustain criminal charges. Unfortunately, the Special Rapporteur must report that, during the course of her mandate, she has come across many situations where the process of acquiring evidence has not met international standards.

73. The Special Rapporteur has further addressed issues related to the role of prosecutors and their independence and impartiality where relevant in several of her thematic reports, including when she discussed the specific measures that must be taken for prosecutors to respect the rights of women (see A/66/289) or children (see A/HRC/29/26 and Corr.1) in contact with the criminal justice system, or to fight impunity for human rights violations through domestic courts (see A/65/274).

F. Equality before the courts and fair trial guarantees

74. The independence of judges and lawyers, and the mandate of the Special Rapporteur, has long been established as central to the respect for the right to equality before the courts and fair trial guarantees. The right to equality before the courts and tribunals aims to guarantee equal access to the administration of justice. That provision not only requires States to prohibit any distinction with regard to access to courts and tribunals that are not based on law and cannot be justified on objective and reasonable grounds, but also requires them to take positive measures

to ensure that no individual is deprived of his or her right to claim justice (see A/HRC/23/43, para. 80).

75. The Special Rapporteur has constantly addressed challenges related to the implementation of the right to equality before the courts and violations to due process of law and fair proceedings. She has voiced her concerns in a large number of communications sent to States across all regions. She has also looked in detail at the way justice is administered and paid particular attention to the existence and implementation, or lack thereof, of guarantees to ensure a fair hearing before a competent, independent and impartial tribunal established by law to all in all the States she visited in an official capacity. Her many findings and recommendations are found in her country visit reports.

76. When it comes to her thematic reports, the Special Rapporteur has discussed the serious concerns raised with regard to fair trial guarantees when civilians are prosecuted before military tribunals (see A/68/285). She noted that using military or emergency courts to try civilians in the name of national security, a state of emergency or counter-terrorism is a regrettably common practice that runs counter to all international and regional standards and established case law (see A/68/285, para. 46).

77. Article 14 of the International Covenant on Civil and Political Rights established that everyone should be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. In that context, and in line with General Comment No. 32 of the Human Rights Committee on the right to equality before courts and tribunals and to a fair trial, the Special Rapporteur emphasizes that provisions of article 14 of the Covenant apply to all courts and tribunals whether ordinary or specialized, civilian or military.

78. In her report, the Special Rapporteur has highlighted that the trial of civilians by military or special courts raises serious issues in relation to the independent administration of justice and respect for the guarantees stipulated in article 14 of the Covenant. Indeed, the particular nature, status, structure and composition of military tribunals often prevents full respect for the fundamental rights of the accused, in particular with regard to the right to be represented by a lawyer of one's choice and to have the confidentiality of one's communication with counsel fully guaranteed, respect for the principle of equality of arms and the right to appeal one's conviction and sentence.

79. While the position of military courts varies from country to country, the Special Rapporteur has been unequivocal when stressing that, in spite of national peculiarities, the only purpose of military tribunals should be to investigate, prosecute and try offences of a strictly military nature committed by military personnel.

80. The Special Rapporteur has also addressed in detail the necessity to set up rules of procedures and guarantees that are gender-sensitive in order to ensure the equality of women before the courts (see A/66/289). Women, particularly those who are in conflict with the law, must benefit from all provisions associated with the right to a fair trial and equality before the courts without discrimination based on their gender, or any other grounds of discrimination prohibited under international law (see A/66/289, para. 74).

81. The Special Rapporteur noted the existence of provisions of criminal law that are discriminatory to women, as well as the discriminatory application of provisions against women during criminal proceedings, in many States. Examples of discriminatory provisions include the criminalization of adultery or fornication, punishing illegal entry and the prostitution of victims of trafficking, punishing girls for sexual intercourse with relatives in cases of incest and the criminalization of abortion, including in cases of miscarriage or threat to the life and health of the mother. When they uphold and apply such discriminatory laws, judges and prosecutors themselves become parties to the violation of the State's international obligations (see A/66/289, para. 74).

82. In order to realize women's equality before the courts in practice, it is essential for the Special Rapporteur that judges, prosecutors and lawyers be sensitized to and trained on gender issues and the international human rights of women, including principles of equality and non-discrimination. Beyond that, judges must also be in a position to challenge gender stereotyping and discrimination when they encounter it if inequality of women before the law is to be successfully fought. They must take steps to prevent, for example, the wrongful charging of female suspects, charges brought against women without any supporting evidence and mis-charging a particular form of conduct, such as charging abortion as infanticide (see A/66/289, para. 75).

83. More recently, the Special Rapporteur paid particular attention to the importance of developing child-sensitive justice systems to guarantee the effective implementation of all children's rights, and in particular to ensure that judicial proceedings are fair to them (see A/HRC/29/26 and Corr.1).

84. She noted that, despite the abundance of international treaties, rules, guidelines and principles protecting children's rights, the treatment of children in judicial proceedings is generally unsatisfactory. States have international obligations to ensure that the treatment of children before the courts is fair. Yet, too often justice systems, and in particular criminal justice systems, are designed for adults and have not integrated the specific procedural safeguards owed to children (see A/HRC/29/26, para. 54). She noted that, at the very minimum, every child alleged as or having infringed the penal law should be granted the guarantees enumerated in article 40, paragraph 2 (a) and (b), of the Convention of the Rights of the Child.

G. Impunity for human rights violations

85. Early in her mandate, the Special Rapporteur built upon the work of her predecessor with regard to the issue of impunity for human rights violations. She devoted a full annual report on the need to develop an independent, impartial and effective criminal justice systems in order to combat impunity and considered the specific roles the different judicial actors must play therein (A/65/274).

86. In that report, the Special Rapporteur sought to clarify the international standards on impunity and reiterated that States bear a responsibility not only to investigate gross violations of human rights, but also to ensure the right of victims to know the truth, provide adequate reparation and take all reasonable steps to ensure non-recurrence of the said violations. She also strove to highlight cases of particular concern regarding respect for the rule of law where impunity is directly linked to the action, or is facilitated by the inaction, of judges or those linked to the criminal justice system.

87. Challenges to combating impunity exist at all stages of the criminal justice system, including at the investigative, prosecution and adjudication levels. In the initial stages, investigations must be conducted in an effective and prompt manner. Investigators must have the capacity to investigate with sufficient resources as well as training and readily available finances. Criminal justice systems must strive to make use of the most advanced technological resources available in order to improve their forensic investigative capacity.

88. At the level of prosecution, impunity for human rights violations is prevalent when cases are not brought before courts. The failure to prosecute may occur for a variety of reasons, including insufficient resources, inadequate professional capacities, poor conditions of service, understaffing, lack of independence and security concerns.

89. As noted above, in many States prosecutors possess discretionary powers to determine which cases will be prioritized and proceed to trial, and which will be discontinued. The Special Rapporteur emphasized that such powers are not absolute and that there should be clear guidelines on how a decision is made regarding the discontinuance or prioritization of cases in order to avoid arbitrariness and impunity.

90. At the judicial level, impunity may arise if there is undue political interference in the functioning of the criminal justice system and restrictions placed on the exercise of judicial authority. To combat that, it is essential that States respect and observe the independence of the judiciary. Without such independence, there is no guarantee of the rule of law or democracy and there is a greater probability of impunity existing within the criminal justice system.

91. States must also provide adequate resources to enable the judiciary to properly perform its functions and prevent the emergence of impunity. The Special Rapporteur has found that a lack of resources can discourage judges from discharging their functions and constrain the capacity of the judiciary to adjudicate cases in a timely manner, which consequently undermines the entire justice system. Recognizing that many States, particularly those in transition, are financially constrained, she nevertheless has advocated for the prioritization of adequate funding for the judiciary and the administration of the courts.

92. The Special Rapporteur noted that another obstacle to combating impunity is the inability or unwillingness to enforce judicial decisions and orders. A judicial decision that is not enforced defeats the purpose of seeking recourse from the judicial system, as a remedy cannot be obtained in practice.

93. The Special Rapporteur also addressed the issue of impunity for human rights violations in the context of her report on military tribunals (A/68/285). While examining challenges regarding the independence and impartiality of military courts, she noted that the administration of justice through military tribunals often raises serious concerns with regard to impunity for human rights abuses.

94. Looking at the subject-matter jurisdiction of military tribunals, the Special Rapporteur explained that the competence of military tribunals to try military personnel accused of offences involving serious human rights violations is an essential issue that is the subject of disagreement among human rights and military practitioners. She emphasized that the jurisdiction of military tribunals must be restricted solely to specifically military offences committed by military personnel,

excluding of human rights violations, in line with the updated set of principles for the protection and promotion of human rights through action to combat impunity. Human rights violations committed by military personnel must come under the jurisdiction of ordinary domestic courts or, where appropriate, in the case of serious crimes under international law, of an international or internationalized criminal court (see A/68/285, paras. 63 and 64).

95. Moreover, in all circumstances, the jurisdiction of military tribunals should be set aside in favour of the jurisdiction of the ordinary courts to conduct inquiries into serious human rights violations, such as extrajudicial executions, enforced disappearances and torture, and to prosecute and try persons accused of such crimes, in line with principle 9 of the draft principles governing the administration of justice through military tribunals. Military jurisdiction over allegations of human rights violations also constitutes a serious obstacle for many victims of human rights violations in their quest for justice.

96. The Special Rapporteur also looked in detail at the issue of impunity for violations of women's rights, in particular rape and sexual violence (see A/66/289). She noted that in many States legal provisions on rape and sexual assault are based on gender stereotypes and prejudices that result in the discriminatory treatment of victims, who are disproportionately female. As a result, in many parts of the world women struggle to secure convictions against perpetrators of rape and sexual violence, which gives rise to a significant problem of impunity.

97. Perpetrators of rape and sexual violence often escape punishment thanks to gender-biased criminal rules of evidence, such as a requirement of proof of physical violence to show that there was no consent, or ingrained stereotypes, such as that women are more likely to lie. In order to combat impunity and secure convictions of rapists and those who perpetrate sexual violence, it is clear that national criminal justice systems must cease to follow such gender-biased rules of evidence. During her mandate and particularly during country visits, the Special Rapporteur has continuously encouraged national authorities to amend discriminatory laws against women and adopt gender-sensitive rules of procedures within their criminal justice systems.

IV. Conclusions

98. **In 1995, in his first report to the Commission on Human Rights, as it was known then, the first Special Rapporteur on the independence of judges and lawyers observed that the requirements of independent and impartial justice are universal and rooted in both natural and positive law. He further asserted that judicial independence and impartiality constitute international custom in the sense of article 38, paragraph 1, of the Statute of the International Court of Justice (see E/CN.4/1995/39, paras. 32 and 35).**

99. **Judicial independence and impartiality also constitute a conventional obligation, as shown by the requirement of a "competent, independent and impartial tribunal" established in article 14, paragraph 1, of the International Covenant on Civil and Political Rights, which, as asserted by the Human Rights Committee, is an absolute right that is not subject to any exception (see CCPR/C/GC/32, para. 19). Moreover, as enshrined in the Bangalore Principles**

of Judicial Conduct, judicial independence is a prerequisite to the rule of law and a fundamental guarantee of a fair trial.

100. Without independence of the judiciary, there is no separation of powers, and without separation of powers there can be no genuine rule of law or democracy. It is the separation of powers, together with the rule of law, that opened the way to an administration of justice that provides guarantees of independence, impartiality and transparency.

101. The importance of separation of powers cannot be understated. If actors in the judicial system are unable to perform their duties independently, or if the procedures of the courts are not respected, there is the potential for unbridled power in the hands of a few. Unlimited power tends to lead to abuse, particularly when prolonged over time and in the hands of a few institutions or individuals. The principle of separation of powers is the result of a historical process that has marked the evolution of human society and is oriented towards the control and limitation of State power. The branches of the State, reciprocally limiting and controlling each other, constitute a guarantee against leanings towards absolutism. The existence of that system of balances and distribution of functions still constitutes today an indispensable prerequisite for a democratic society.

102. It is important to highlight that the independence of the judiciary is not a permanent state secured by the adoption of adequate norms and practices. Ensuring the independence of the judiciary requires continuous attention and monitoring to identify and tackle newly emerging problems and challenges that jeopardize judicial independence and impartiality as well as the rights of those who come into contact with the justice system. The independence of judges, prosecutors and lawyers and the proper administration of justice require constant attention and further investment so that judicial actors and institutions can respond adequately to societal changes.

103. An independent and competent judiciary also requires a pre-established procedural system, organized and coherent, which adequately guarantees equality before the law and the legal security of all. The existence of the rule of law is questioned when guarantees of due process are lacking or ignored, when the rights of defendants and detainees are no longer guaranteed and when large areas of public activity are left outside the reach of legal remedies.

104. In 2015, we celebrate the thirtieth anniversary of the Basic Principles on the Independence of the Judiciary and the twenty-fifth anniversaries of both the Basic Principles on the Role of Lawyers and the Guidelines on the Role of Prosecutors. Looking towards the future, it is the Special Rapporteur's duty to plead for renewed attention to and the promotion of existing international laws, standards, principles and guidelines on judicial independence and impartiality and the independence of the legal profession.

105. In the light of what the Special Rapporteur has witnessed during her mandate, those three instruments, together with the Bangalore Principles on Judicial Conduct and relevant conventional provisions, in particular article 14 of the International Covenant on Civil and Political rights, remain absolutely essential to the promotion and protection of the independence of judges, lawyers and prosecutors throughout the world. The most fundamental rights of

judges, lawyers and prosecutors are still blatantly violated on a daily basis across the world, and that should deserve the full attention of Member States.

106. Undoubtedly, when the administration of justice fails, impunity takes over and the consequences can be dramatic. Impunity undermines democracy, the rule of law, people's trust in State institutions and opportunities for development. Furthermore, weak judicial systems that fail to guarantee access to justice for all lead to situations in which the most marginalized groups of the population are excluded from the judicial system, which places them in a position of need rather than empowerment.

107. Therefore, it is crucial that all States place justice at the centre of their priorities and, to that end, effectively recognize the importance of an independent and impartial judiciary, respecting both the role of the judiciary in upholding the rule of law and democracy and in guaranteeing an efficient delivery of justice for all. In that sense, the Special Rapporteur wishes to highlight that the inclusion of access to justice in the post-2015 development agenda would be an important first step in encouraging States to pay more attention to the justice system and its functioning.

108. To conclude, the Special Rapporteur would like to once again underline the importance and centrality of the mandate of the Special Rapporteur on the independence of judges and lawyers to the promotion of all human rights by recalling the Vienna Declaration and Platform for Action, unanimously adopted at the World Conference on Human Rights on 25 June 1993, and which clearly and concisely stated that:

> Every State should provide an effective framework of remedies to redress human rights grievances or violations. The administration of justice, including law enforcement and prosecutorial agencies and, especially, an independent judiciary and legal profession in full conformity with applicable standards contained in international human rights instruments, are essential to the full and non-discriminatory realization of human rights and indispensable to the processes of democracy and sustainable development.

109. The Special Rapporteur encourages Member States and all relevant stakeholders and institutions to continue to seriously consider the many recommendations put forward over the years in her annual thematic reports, as well as the specific recommendations contained in country visit reports. Complacency should not overcome the absolute necessity to closely monitor the independence of the judiciary and the administration of justice and to take appropriate and prompt measures to address the challenges and problems identified.